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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 322 OF 1996

...
Cuttack this the 28th day of March, 2000

Smt. Ahalya Bhuyan

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

26.3.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 322 OF 1996
Cuttack this the 28th day of March, 2000

CORAM:

THE HON'BLE SHRI G. MARASIMHAM, MEMBER (JUDICIAL)

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Smt. Ahalya Bhuyan
aged about 45 years
W/o. Bikal Bhuyan
of Vill: Nadhera, PS: Motanga
Dist: Dhenkanal

... Applicant

By the Advocates : M/s. U. B. Mohapatra
D. P. Dhalasamant

-Versus-

1. Union of India represented by
the General Manager, S.E. Railway,
Garden Reach, Calcutta
2. Divisional Railway Manager,
S.E. Railways, Khurda Road Division
At/Po: Jatni, Dist: Khurda
3. Divisional Personal Officer,
S.E. Railways, Khurda Road Division
At/PO: Jatni, Dist: Khurda
4. Divisional Accounts Officer,
S.E. Railways, Khurda Road Division,
At/Po: Jatni, Dist: Khurda
5. Smt. Champa Bhuyan,
W/o. Late Bikal Bhuyan,
Vill: Nadhera, PS: Motanga
Dist: Dhenkanal

... Respondents

By the Advocates : M/s. B. Pal
O. N. Ghosh

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ORDER

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MR.G.NARASTHAM, MEMBER(JUDICIAL): Applicant, Smt.Ahalya Bhuyan, claiming to be the second wife of the deceased railway prays for disbursement of 50% of pension of her deceased husband to her on the ground that non payment of 50% of share of the pension amounts to violation of Rules as provided in the Manual of Railway(Pension) Rules, 1950. Earlier she had approached this Tribunal in O.A. 229/94. By order dated 22.3.1995, this Tribunal disposed of the application directing her to obtain declaration of her status as the wife of the deceased railway servant. Thereafter, she had obtained a Legal Heir Certificate dated 18.12.1995 from the Additional Tahasildar, Dhenkanal in Certificate Case No.4076 of 1994(Annexure-A/1) and filed this case.

2. The Railway Department disputed her status as the second wife. According to them the concerned railway servant Shri Bikal retired on superannuation on 31.7.1986. Before his retirement he had executed documents giving the photographs of himself and his wife Smt. Champa Bhuyan(Res.5) vide Annexure-R/1. Before the settlement he had submitted settlement document, in Form-VI(Annexure-R/2) giving particulars of his family members. Besides, he also filed a Court Affidavit stating Smt.Champa Bhuyan as his wife (Annexure-R/3). These documents executed by the deceased employee do not reveal that the applicant being is second wife. The Legal Heir Certificate issued by the Addl.Tahasildar, Dhenkanal, according to Department does not amount to declaration as required by the Tribunal in the earlier Original Application.

3. No rejoinder has been filed by the applicant.

4. Heard learned counsel for both sides. Also perused the records.

5. There is no dispute that in the settlement papers executed by the deceased railway employee prior to his retirement the name of the applicant does not find place as second wife. It is true that ~~on dispute~~ ^{original} wife Smt. Champa Bhuyan though impleaded as Res. 5 in this Original Application, inspite of notice, had not contested the case. This does not necessarily mean that the railway Department is bound to accept the applicant as second wife specially when there is direction of the Tribunal that she should obtain a declaration of her status as second wife. Such a declaration of status can be given only by Civil Court of competent jurisdiction and not by a revenue authority sitting in a quasi judicial capacity and making some formal enquiry. Moreover, the Certificate Case was filed by the applicant before the Addl. Tahasildar, Dhenkanal appears to be of the year 1994. In other words, this certificate case was filed much prior to order dated 22.3.1995 passed by this Tribunal in the earlier Original Application. Therefore, it is clear that this Tribunal did not intend that the order to be passed in that Certificate Case filed in the year 1994 would be the guiding factor in deciding her status as second wife. Moreover, as earlier observed, such a declaration of status as second wife cannot be given under law by a revenue authority exercising the quasi judicial powers in a certificate case. In view of this I find that there is no convincing material adduced before me to hold that the applicant is the second wife

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of the deceased railway employee.

In the result, the application is held to be without any merit and the same is dismissed, but without any order as to costs.

28.3.2007
(G.NARASTHAM)
MEMBER(JUDICIAL)

B.K.SAHOO