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O.A.NO. 893 of 2004.

Ajaya Kumar Naik Applicant..

Vrs.

Union of India & Ors. ... Respondents.

ORDER DATED: 07-10-2005.

AFR
Applicant, Ajaya Kumar Naik, has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 through his natural father guardian Shri Dinabandu Naik. He has claimed to be the adopted son of an Ex employee of Postal(RMS)Department of Government of India namely, Bidyadhar Nayak. The said Bidyadhar Nayak was a Sorter in RMS at Bhubaneswar. In this second round of litigation, the Applicant has sought for a direction to the Respondent-Department for payment of family pension benefits; which was denied to him under Annexure-6, dated 22nd of June, 2004.

2. The sum and substance of the grounds set forth in the counter filed by Respondent-Department are that as the relationship of the Applicant (with the retired/deceased Government servant) is bereft of any reliable records available in the Respondent-Department and as there are no unimpeachable documents available to show the Applicant Ajaya to be the adopted son of Bidyadhar Nayak, under the Rules, no family pension can be released in favour of the Applicant and, therefore, the

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grievance of the Applicant/natural father guardian of the Applicant has rightly been turned down by the Respondents, under Annexure-6 dated 22-06-2004; which needs no interference by this Tribunal. That apart, the enquiry report made available by the Department throw sufficient doubt on the claim of the Applicant.

3. In the above premises, Mr. B. K. Biswal, learned counsel appearing for the Applicant and Mr. U.B. Mohapatra, learned Senior Standing Counsel appearing for the Respondent-Department were heard. The materials placed on record were also perused.

4. Having heard the learned counsel for the parties, now it is clear that the present dispute relates to the relationship of the Applicant with the retired/deceased Government servant. It is to be observed that this Tribunal is set up under the Administrative Tribunals Act, 1985 to resolve the matters pertaining to the service conditions of the Government of India employees/to resolve any dispute regarding payment of any dues etc. of the employees as also of their legal heirs. This Tribunal is certainly not vested with any power/ authority to either frame any Rules/Regulations governing the service conditions of any employees of the Government of India or to adjudicate the dispute regarding the relationship/legal heir ship/son ship of any body/a Government of India employee; which is , certainly, outside the scope and ambit of this

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Tribunal. It is for a competent Civil Court, set up under the Constitution of India , to decide/resolve all such disputes. Once such relationship/legal heir ship/son ship etc. is conclusively decided, there would be no difficulty on the part of the Government of India to release the dues of a retired/deceased Government of India employee and, if still there is any delay or ambiguity in the matter of payment of any of the dues of retired/deceased Government employees, one can approach this Tribunal.

5. In the instant case, since the very son ship/relationship of the minor Applicant with the retired/deceased Government Servant is in dispute, in all fairness of things the Applicant should first work out his remedy before the competent Civil Court to establish the relationship and, only after settlement of the said dispute, if there still remains any dispute (regarding payment of family pension) he shall remain at liberty to approach this Tribunal in order to resolve the unsolved grievances.

6. In the aforesaid premises, after going through the pleadings of the parties, and giving due consideration to the various aspects of the matter , this Original Application is hereby disposed of by asking the Applicant/his natural father guardian to work out remedy in the competent Civil Court by making the Union of India (represented through CPMG of Orissa Circle at Bhubaneswar and Senior Superintendent of Railway Mail Services of North Division at Cuttack), Pravakar, Pradeep



13 and Simanchali (who were declared as the nominee by Bidyadhar Nayak under Annexure-R/1 and Annexure-R/2 dated 26-10-1994 produced by Respondent-Department) and other near relatives as parties and, on the basis of the decisions to be rendered by the competent Civil Court, the Respondent-Department are hereby directed to process the case of the Applicant, (of course, subject to the appeal if any to be preferred) with regard to payment of family pension, as due and admissible under the Rules, to the Applicant. There shall however, be no order as to costs.

7. Send copies of this order to the Applicant and all the Respondents. Free copies of this order be also given to counsel for both parties.

AFR

J. S. Jais
07/10/05
MEMBER(JUDICIAL)