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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.531 OF 2010
Cuttack this the 04th day of April, 2012

Ali Dei @ Nayak Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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


(A.K.PATNAIK)
Member (Judl.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.531 OF 2010
Cuttack this the 24th day of April, 2012

CORAM:

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Ali Dei @ Nayak, aged about 60 years, W/o. Late Bhima Nayak, At-Kuranji Pur, PO-Dalakasoti, PS-Balipatna, Dist-Khurda

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By the Advocates: M/s.D.P.Dhalasamant & N.M.Rout
-VERSUS-

1. Union of India represented through its Secretary, department of Posts, Ministry of Communications, Govt. of India, Dak Bhawan, New Delhi-110 001
2. Chief Postmaster General, West Bengal Circle, Kolkata
3. Senior Postmaster, Alipur Head Post Office, At/PO- Alipur, Kolkata
4. Reena Nayak, aged about 36 years, W/o. Japani Mallik, at-Chandanpur, PO/PS-Chandanpur, Dist-Puri
5. Arta Nayak, aged about 30 years, S/o. late Bhima Nayak, Insane represented through its sister Reena Nayak, W/o. Japani Mallik, At-Chandanpur, PO/PS-Chandanpur, Dist-Puri

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By the Advocates: Ms.S.Mohapatra
Dr.C.R.Mishra
(Res.Nos. 4 & 5)

O R D E R

A.K.PATNAIK, MEMBER (J):

In this Original Application, Applicant, claiming to be the legally married wife of deceased postal employee, Bhima Naik has prayed for direction to Respondent Nos. 1 to 3 to grant/release family pension in her favour w.e.f. 30.4.1998.

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2. Short facts leading to filing this Original Application are that husband of the Applicant while working as Gr.D staff under Respondent No.3 kept one Pageli Dei as his concubine, who had given birth Respondent Nos. 4 and 5. During the course of his employment, applicant's husband had come to his native place at Kurunjipur when he fell ill and ultimately passed away on 29.04.1998 leaving behind applicant (widow) and one son and one daughter. After the death of her husband, applicant submitted a representation to Respondent No.3 for release of DCRG, pension and other retrial benefits as admissible under the rules in her favour. In the meantime, she could come to know that one Pageli Dei had been paid an amount of Rs.1, 22,514/- towards D.C.R.G. and had been granted family pension w.e.f. 30.4.1998 on being nominated during life time of her husband. In the above backdrop, the Applicant moved the Civil Judge, Sr. Division Bhubaneswar in T.S.No.729/999, which subsequently having been transferred to Adhoc Addl. District Judge, Fast Tract Court No.3, Bhubaneswar formed the T.S.No.14/2003. Vide judgment dated 21.8.2003, though the applicant was held to be the legally married wife of the deceased postal employee, but no relief could be granted to her in so far as grant of pension and

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pensionary benefits are concerned. In the above backdrop, Review Petition No.2/04 filed by the applicant was also dismissed.

3. Respondent-Department filed their counter opposing the prayer of the applicant whereas Private Respondents have not raised any objection to the prayer of the applicant being allowed. In the counter filed the Respondent-Department it has been stated that Pageli Dei who had been nominated by the deceased postal employee as his wife has been granted the pensionary benefits. According to them, the O.A. being devoid of merit is liable to be dismissed.

4. We have heard Shri D.P. Dhalasamant, learned counsel for the applicant, Miss.S.Mohapatra, learned Addl. Standing Counsel appearing on behalf of the Departmental Respondents and Dr.C.R.Mishra, learned counsel appearing on behalf of Private Respondent Nos. 4 and 5 and perused the materials on record.

5. Shri Dhalasamant submitted that since in T.S. No.14/2003 it has been categorically held by the learned Addl. District Judge that applicant is the legally married wife of the deceased Postal employee, Respondent-Department are obliged to disburse pensionary benefits and monthly family

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pension in her favour. On the other hand, it has been submitted by Miss.Mohapatra, learned Addl. Standing Counsel for the Respondents that as per extant Pension Rules, the benefits accrued thereon have been granted in favour of Pageli Dei who had been nominated by her husband as the legal heir/nominee. It is the further contention of Ms.Mohapatra that applicant has failed to establish that she is the legally married wife of the deceased postal employee and that the Civil Judge in T.S.No.14/2003 has nowhere declared the applicant as legally married wife and as such she is not entitled to any relief.

6. Respondent No.4 by filing a short counter has stated that Pageli Dei, her mother was the second wife of the deceased postal employee, who was in receipt of family pension w.e.f. 30.4.1998 but the same was stopped w.e.f. September, 1999. However, Respondent No.4 has not raised any objection to the prayer of the applicant made in the O.A.

7. I have considered the submissions made by the learned counsel for the parties. At the out set it is worthwhile to mention that in Page-6 of the decision dated 21.8.2004 in T.S.No.14/2003 learned A.D.J. while answering the issue Nos. 1 & 2 held as under:

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"It is, therefore, concluded that Ali Dei is the legal married wife of Bhima Naik and Barata Naik is the son of Bhima Naik and Plaintiff No.1".

8. Viewed from this, the contention of the Departmental Respondents that the applicant has failed to prove that she is the legally married wife of the deceased postal employee Late Bhima Naik is out of place.

9. Since the disputed point is set at rest by the judgment of the Civil Court, in my considered view there is no impediment on the part of the Respondent-Department to disburse monthly family pension in favour of the applicant, who is the legally married wife of the deceased postal employee. Fact remains that Pageli Dei who was allowed the death retirement benefits of Late Bhima Naik, on the basis of nomination, died on 29.05.2009 but prior to that pension granted in her favour had been stopped w.e.f. September, 1999. In view of the above, Respondent Nos.1 to 3 are hereby directed to grant/release the monthly family pension in favour of the Applicant with effect from the date she is due to receive the same as per Rules, within a period of three months from the date of receipt of this order. Ordered accordingly.

With the above observation and direction, this O.A.
is disposed of. No costs.

A.K.Patnaik
(A.K.PATNAIK)
JUDICIAL MEMBER

BKS,PS