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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No.344 of 2009
Cuttack, this the 21st day of October, 2010

Shri Kuppa Pawan Kumar Applicant
Versus
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

(C. R. MOHAPATRA)
Member (Admn.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A. No.344 of 2009

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C O R A M

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

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Shri Kuppa Pawan Kumar aged about 13 years, Son of Kuppa Dharma Rao, at present residing at Harizon Street, Kasinagar, PO/PS-Kasinagar, Dist. Gajapati represented through his paternal grandfather guardian Kuppa Surya Narayana alias Kuppa Suryi Narayana alias Surayya, Son of late Bhugayya at present residing at Harizon Street, Kasinagar, PO/PS-Kasinagar, Dist. Gajapati.
... Applicant

By legal practitioner: M/s. Prasanna Kumar Mishra, S.K.Dash, Counsel

-Versus-

1. Union of India represented through its Secretary Railway, Rail Bhawan, New Delhi.
2. Divisional Railway Manager, East Coast Railway, Waltier Division, Waltier (AP).
3. Senior Divisional Personal Officer, East Coast Railway, Office of the Railway Divisional Manager, Waltier.
4. Kuppa Santoshi wife of Late Kuppa Dharma Rao, At/Po. Parlakhemundi, District- Gajapati.

..... Respondents

By legal practitioner: Mr.S.K.Ojha, Standing Counsel
Mr.P.V.Balkrishna, Counsel.

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ORDER

MR. C.R.MOHAPATRA, MEMBER (ADMN.):

This Original Application has been filed by the Applicant projecting his grand father as the legal guardian for himself and his younger sister seeking direction to the Railway-Respondents to disburse the service benefits of his father Late K.Dharma Rao (Kuppa Dharma Rao) who while working in the Railway as Khalasi (Fitter) under the East Coast Railway died prematurely on 02.12.2008 leaving behind the Applicant and his daughter (younger sister of the Applicant) with their grand father. as his wife who is working as a Staff Nurse at Parlakhemundi eloped with another man deserting his father since 2006. In support of the contention that his mother deserted his father and they are staying separately with his grand father, Applicant relied

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on the representation dated 4.2.2008 (Annexure-A/3) submitted by his father, while in service bringing such fact and seeking transfer from KRPU to WAT.

2. Railway-Respondents filed their reply stating *inter alia* as under:

“2. The Railway Administration is under the obligation to disburse the death benefits of late K.Dharma Rao to his legal heirs. In absence any other order/orders of the court of law in contrary, the administration has to take appropriate steps to disburse the benefits to the nominee available in the service records. Apart from that before disbursement of the dues the administration is also taking steps to satisfy itself about the inheritance of the legal heirs those who have succeeded the deceased employee.

3. As per the service records and other records available to the administration, three persons namely Kuppa Santoshi, W/o.Late K.Dharma Rao (2) K.Pawan Kumar, Son of Late K.Dharma Rao (Present applicant) and Priyanka, daughter of Late K.Dharma Rao are the legal heirs of the deceased employee to whom the death benefits of deceased Railway employee can be paid. Therefore, all the benefits as due and admissible are to be apportioned/paid to them as per the Railway Rules. Since the mother is the natural guardian of the minor children, all such benefits she has to receive on behalf of all unless anything is decided in contrary by the competent court of law.

4. The present Original Application is not maintainable as the applicant is a minor and cannot be represented through his grand father in absence of any such declaration by the court of law. Therefore, the prayers made on the guise of a person who is not competent to represent the applicant cannot be granted by this Hon'ble Tribunal. At the same time, the applicant is also failed to prove that any such declaration is made by the competent Court of law to succeed any such property/properties/benefits of the deceased employee with the guardianship of his grand father. Hence prayer of the

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applicant cannot be accepted and also cannot be adjudicated by this Hon'ble Tribunal in this present form.

5. As per the Railway Rules, widow will succeed all the death benefits except DCRG payable to the deceased employee. However, as per the rule DCRG amount will be apportioned between all the Class-I legal heirs including the widow. Moreover, aforesaid payments can be made by the Railway Authority to any such person, if any such direction/order is available from the Competent Court of law to that effect. In the present case, since no other order/orders or direction/directions are available contrary to the rules, benefits accrued due to death of Shri K.Dharma Rao can be made to the legal heirs as per the Railway Rules.

6. The averments made in the Original Application are purely the family dispute and not within the knowledge of the administration for which no specific comments are offered by the Respondents."

Accordingly, Railway-Respondents have prayed for dismissal of this Original Application.

3. By filing an individual counter, Respondent N.4 while opposing the stand taken by the Applicant in his Original Application has prayed that after the death of K.Dharma Rao she being the legal guardian of her child and one of the nominees of Late Rao, in terms of Rule she is entitled to receive all death cum retirement dues of her husband. Accordingly, she has prayed for dismissal of this OA.

4. Heard. Perused the materials placed on record including the written note of submission filed by the Learned Counsel for the Applicant. It is the stand of the Respondents/Railways that in the present situation, as per the Rules, the Applicant is entitled to his part of the dues proportionately provided there has been proper and valid document of the legal guardianship and no such valid document has been filed establishing that the applicant is residing with his grand father and the grand father is his legal guardian. The


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representation under Annexure-A/3 was made by the Railway servant seeking his transfer from one place to other on the ground that his wife deserted him since 2006. This representation does not speak unequivocally that after his death the grand father is looking after the children being the legal guardian. If the wife of late Rao deserted him he could have taken steps for deletion of her name as the nominee. No such document has been filed to that extent. This Tribunal is not competent to decide the guardianship of the son/daughter of a Government servant; for which separate forum is available under the Act/Rules. However, it is seen that no such opportunity has been granted by the Railway to the applicant or his grand father to establish the guardianship for taking steps to release the dues. In view of the above, ends of justice would be met if I direct the Respondents to grant reasonable time to the applicant/grand father of the applicant to establish the legal guardianship of the Applicant and his younger daughter and thereafter to act on the same as per the rules to release the service benefits of the ex railway servant and till a decision is taken after getting the materials no service benefits of Late Rao need be disbursed in favour of any of the nominees available in service records. Ordered accordingly.

5. In the result, with the observations and direction made above, this OA stands disposed of. No costs.


(C.R. Mohapatra)
Member (Admn.)