

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No. 183 of 2010  
Cuttack, this the 10<sup>th</sup> November, 2010

M.Alina Rani & Anr. .... Applicants  
Versus  
Union of India & Others .... Respondents  
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CORAM

THE HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER

Applicant No.1 (M.Alina Rani) and Applicant No.2 (Kumari

M.Alisa Rani) claiming to be the wife and daughter of Late M. Vijaya Kumar

who <sup>while</sup> working as Assistant Driver under Chief Crew  
Controller/Loco/Titlagarh, Deptt. Mechanical, E.C.Railway, Sambalpur  
Division died in harness on 21.1.2002 have approached this Tribunal in the  
present Original Application filed under section 19 of the A.T. Act, 1985  
seeking to quash the order under Annexure-A/4 dated 08-04-02002 with  
direction to the Respondents to release all retiral dues in favour of the  
Applicant No.1.

2. Respondents have filed their counter inter alia stating therein  
that after the death of late M. Vijay Kumar two sets of claim papers from  
different persons were submitted (a) by the parents of the deceased employee  
and (b) by the Applicant No.1 claiming to be wife of late M.Vijay Kumar  
supported with a legal heir certificate issued by the Tahasildar/Titlagarh dated  
01.10.2004. For the aforesaid reason, the Railway Authority asked the  
Applicant to submit the succession certificate from the competent court of law  
substantiating her claim over the retiral benefits. Consequently, M.Alina Rani  
filed MJC No.6 of 2005 before the Learned Court of Civil Judge (Sr.  
Division)/Titlagarh for issue of succession certificate in her favour in which a  
direction was issued as an interim measure on 17.2.2005 not to disburse the

9 retirement benefit of Late M. Vijay Kumar to his parents for the time being. Finally, on 26.4.2007 the matter was dismissed by the Learned CIVIL Judge (Sr. Divison), Titilagarh. On the other hand Shri M.David and Smt. M.Premavati, the parents of late M.Vijay Kumar filed OA No. 23 of 2005 before the Railway Claims Tribunal, Secunderabad claiming compensation of Rs.4,00,000/-. The RCT, Secunderabad directed in order dated 29.4.2009 to deposit the compensation amount of Rs.4, 00,000/- within two months failing which an interest @ 9% on the compensation amount will be charged. Finally the matter was decreed in favour of the parents of M. Vijay Kumar and in the said premises the Respondents deposited an amount of Rs.4, 07,200/- on 09.12.2009 in favour of Additional Registrar, RCT, Secunderabad. It has been stated that the ex railway employee has not submitted any declaration about his family members nor supplied any information regarding his marital status. The parents of Late M.Vijaya Kumar claimed the payment of settlement dues along with compensation and family pension of Late M.Vijaya Kuamr in their favour on the basis of nomination available on Railway Records. In the peculiar circumstances the Railway administration had no other option but to ask M.Alima Rani to submit succession certificate as ~~to~~ proof to her right over the benefits of the deceased employee. In ordinary circumstances legal heirs certificate granted by the Tahasildar would have been accepted and acted upon for settling the claim of an employee dying in harness but as in the present case since there are two claimants, succession of certificate was insisted upon as Railway Service (Pension) Rules, 1993 Chapter VI Rule 73 provides that the amount of death gratuity or retirement gratuity shall be payable to the person in whose favour a succession certificate in respect of the gratuity has been granted by a court of law. Besides on the merit of the matter, they have

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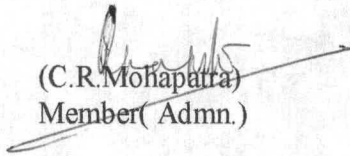
stated that this OA is liable to be dismissed on the ground of non-joinder/misjoinder of party.

3. By filing rejoinder, the Appilcant has brought to the notice of this Tribunal that being erroneously advised applicant No.1 approached in wrong forum. To her ill luck her petition for grant of succession certificate filed before the Leaned Civil Judge (SD) Titilagarh was dismissed for default. To restore the same the Applicant No.1 filed MJC No. 6/2005 which was dismissed due to non-application of mind. Being aggrieved with the aforesaid order the applicant No.1 has filed MJA No.2 of 2007 before the Leaned Court of Additional District Judge, Titlagarh which is pending.

4. Heard Learned Counsel for both sides and perused the materials placed on record. By putting emphasis on the certificate granted by Secretary of a temple (Annexure-A/1), the certificate of birth of Applicant No.2 out of the wedlock of the Applicant No.1 and Late M. Vijay Kumar (Annexure-A/2) and the legal heir certificate under Annexure-A/5, Learned Counsel for the Applicant submitted that non-disbursement of the retiral dues of Late M.Vijaya Kumar in favour of Applicant was intentional and deliberate only to favour others with oblique motive. By reiterating the stand taken in the counter, the Respondents' counsel seriously objected to the aforesaid contention of the Learned Counsel for the Applicants and has prayed dismissal of this OA. I have given my thoughtful consideration to the arguments advanced by Learned Counsel for both sides and perused the materials placed on record. According to the Applicant No.1 she filed a case for succession certificate with a view to substantiate that she being the wife of Late M.Vijaya Kuamr is entitled to receive the retiral dues of her husband. But the said case was dismissed against which order she filed MJC before the Learned Additional District Judge, Bolangir. However none of the parties have

produced copy of the order showing the reasons of rejection and as to whether these documents formed part of the said case. Once competent court dismissed the case filed by the Applicant No.1 claiming succession to be the wife of Late Vijaya Kumar, it is not possible for this Tribunal to direct the Respondents to release the retiral dues in favour of the Applicant No.1 holding to be the wife of Late Vijay Kumar. However, to avoid further multiple litigations, ends of justice would be met if direction is issued to the Respondents not to release the retiral dues of Late M.Vijaya Kumar till the case pending before the Leaned Additional District Judge is decided. Ordered accordingly.

5. In the result, with the aforesaid observation and direction this OA stands disposed of. No costs.

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