

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**O.A. Nos.927/2012 & 17/2013**  
Cuttack, this the 29<sup>th</sup> day of April, 2013

**CORAM**

**HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)**  
**HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)**

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**OA No.927 of 2012**

1. Smt. Pratima @ Kuni Pradhan,  
Aged about 35 years,  
W/o. Late Bikram Kumar Routray.
2. Gayatri Routray,  
Aged about 11 years.
3. Sambhu Prasad Routray,  
Aged about 13 years.

[Applicant Nos.2&3 are daughter & son of Applicant No.1 and Late Bikram Kumar Routray. All are residents of Village: Panchupalli, Po-Retanga, PS-Jatani, Dist-Khurda now residing at --Hadapada, Po-Hadapada, Via-Narangarh, Dist. Khurda-752018]

.....Applicants

(By Advocate(s): Mr.P.K.Padhi & Mrs.J.Mishra)

**-Versus-**

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**Union of India represented through**

1. Secretary Cum Director General of Posts,  
Dak Bhawan,  
New Delhi-110 116
2. Chief Postmaster General,  
Andhra Pradesh Circle,  
At/Po.Hyderabad,  
Andhra Pradesh-500 001.
3. Director of Accounts (Postal),  
A.P. Circle,  
At/Po/Dist. Hyderabad,  
Andhra Pradesh-500 001.
4. Superintendent of Post Offices,  
Srikakulam Division,  
At/Po/Dist. Srikakulam,  
Andhra Pradesh-532 001.
5. Senior Superintendent of Post Offices,  
Puri Division,  
At/Po/Dist.Puri-752 001.
6. Binapani Routray,  
D/o.Brasa Mangaraj,  
W/o.Late Bikram Routray.
7. Gayatri Routray (A),  
D/o.Late Bikram Kumar Routray.
8. Dharitri Routray,  
D/o.Late Bikram Kumar Routray,

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[All are resident of Village Panchapalli, Po.-Retanga, PS-Air Field, Dist. Khurda.]

..... Respondents

( By Advocate: Mr. J.K.Khandayatray & M/s.S.K.Ojha, S.K.Nayak)

**OA No. 17 of 2013**

Smt.Binapani Routray,  
Aged about 50 years,  
W/o.Late Bikram Kumar Routray,  
Village-Panchapalli,  
Po-Retanga,  
Ps-Jatani,  
Dist.Khurda.

.....Applicant

(Advocate(s) -M/s.S.K.Ojha,S.K.Nayak)

**-Versus-**

Union of India represented through –

1. Secretary Cum Director General of Posts,  
Dak Bhawan,  
Sansad Marg,  
New Delhi-110 116
2. Chief Postmaster General,  
Andhra Pradesh Circle,  
Hyderabad,  
Andhra Pradesh-500 001.
3. Superintendent of Post Offices,  
Srikakulam Division,  
At/Po/Dist. Srikakulam,  
Andhra Pradesh -532 001.

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4. Director of Accounts (Postal),  
Office of the D & A (Post),  
At/Po/Dist.Hyderabad,  
Andhra Pradesh-500 001.
5. Senior Superintendent of Post Offices,  
Puri Division,  
At/Po/Dist.Puri-752 001.
6. Prastima & Kuni Pradhan  
D/o.Manu Pradhan,  
Village-Panchupalli,  
Po.Retanga,  
Ps-Jatni,  
Dist.Khurda,  
Via-Nayagarh,  
Ps.Jankia,  
Dist.Khurda.

..... Respondents

( By Advocate: Mr. D.K.Behera)

**O R D E R** (oral)

**MR. A.K. PATNAIK, MEMBER (J):**

Although we have heard the OAs, one after the other, since the issues involved, in both the matters, are interlinked, this common order is passed which will govern in both the two OAs.

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2. We have heard Mr.P.K.Padhi, Learned Counsel appearing for the Applicants, Mr.J.K.Khandayatray, Learned Additional CGSC appearing for the Respondents and Mr.S.K.Ojha, Learned Counsel appearing for the private Respondents in OA No. 927 of 2012 and Mr.S.K.Ojha, Learned Counsel appearing for the Applicant and Mr.D.K.Behera, Learned Additional CGSC appearing for the Respondent-Department in OA No. 17 of 2013 and perused the materials placed on record.

3. Facts of the matter are that Late Bikram Kumar Routray who joined in the Postal Department on 25.4.1981 and was working as Sub Post Master, Mattam Sariapalli Sub Post Office in Srikakulam Postal Division prematurely died on 04.08.2005. The ex-official did not furnish any information regarding his family members in Form-3 (list of Family Members) or any nomination for Death Gratuity, Central Government Group Insurance Scheme except the nomination made for General Provident Fund which is in the name of Managing Trustee, Shri Prasanthi Nilayam Central Trustee, Prasanthi Nilayam on 26.4.2003 and 26.6.2004.

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Smt. Binapani Routray (Applicant in OA No.17/2013) and Smt. Pratima alias Kuni Pradhan (Applicant No.1 in OA No. 927 of 2012) have claimed pension benefits of Late Bikram Kumar Routray as 1<sup>st</sup> and 2<sup>nd</sup> wives of Late Bikram Kumar Routray. Ms.Gayatri Routray and Shri Sambhu Prasad Routray (Applicant Nos.2 and 3 in OA No. 927/2012) have claimed to be the son and daughter of Smt. Pratima Alias Kuni Pradhan).

Applicants in OA No. 927 of 2012 i.e. Smt.Pratima Alias Kuni Pradhan and others filed a Civil Suit before the Learned Civil Judge, Junior Division, Khurda in which Smt.Binapani Routray (Applicant in OA No.17) and Chief Postmaster General, Andhra Pradesh and Superintendent of Post Offices, Srikakulam Division who are also Respondents in both the OAs were made as defendants seeking the following declaration:

"1. Let the honourable court be pleased to declare that the Plaintiff No.1 is the married 2<sup>nd</sup> wife and the Plaintiff No.2 and 3 are the daughter and son of Late Bikram Routray and to declare that the Plaintiffs are the legal heirs of Late Bikram Routray of PANCHAPALLI, ps. Jatni.

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2. Let the cost of the suit be decreed in favour of the Plaintiff;

3. Let any other relief to which the Plaintiffs are entitled be decreed in their favour."

4. While the matter stood thus, the Plaintiffs and defendant No.1 reached a compromise under order 23 Rule 3 CPC and filed the same before the Learned Civil Judge, Junior Division, Khurda. The compromise reached by them reads as under:

"That it is for all purpose to be henceforth accepted that the Plaintiff No.1 not being the legal married wife of deceased Bikrama Kumar Routray, is not entitled to get any financial benefit including family pension from the authorities, where Bikrama was employed and the said Plaintiff No.1 is also disentitled to get any proportionate share from out of the funds liable to be paid to the successors of deceased employee named above. She shall also not claim any interest over the ancestral immovable properties succeeded by deceased Bikrama Kumar Routray for herself except the property acquired by him out of his own labour and earning. But the Plaintiffs No.2 and 3 shall be entitled to get the properties acquired by Bikrama Kumar Routray in his name or in the name of any of his heir inside and outside the State and the Defendants No.1,4 and 5 shall have no right, title, interest over the said acquired properties of Bikrama either discovered or undiscovered.

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However, the Plaintiffs No.2,3 and the defendant No.1 and 4 and 5 shall be entitled to get all service dues either deposited or earned of Bikrama Kumar Routray jointly and each of his aforesaid heirs shall have there on equal share. Further the defendant No.1, Binapani Routray being the legal married wife of deceased employee Bikrama Kumar Routray, shall be entitled to get the family pension likely to be released by the defendant No.2 and 3 for the death of deceased employee named above."

5. In view of the above the Civil Suit No.78/2006 was disposed of on 26.10.2008 with the following directions:

"Order dated 26.10.08.

The case record is put up today at Lok Adalat held at Bolagarh Girls High School, Bolagarh. Both the parties are present. Ausman Badajena is present on behalf of the Defendant No.6. J.K.Khandayatray, Advocate is present on behalf of the Defendant Nos.2 &3. The compromise petition is read over and explained to both the parties to which they admitted to be correct and the suit is decreed in terms of compromise petition. The compromise petition do form part of the decree. Accordingly, the suit is disposed of."

6. Despite the aforesaid decree of the Civil Court, since the dues of ex official were not released by the Respondent-Department in spite of representation,

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Applicants in OA No. 927 of 2012 had earlier approached this Tribunal in OA No.435/12 which was disposed of on 11<sup>th</sup> June, 2012 with direction to consider and dispose of the pending representation of the applicant within a period of eight weeks. Thereafter in order dated 3.10.2012 (Annexure-A/3) the Supdt. of Post Offices, Srikakulam Division, Srikakulam, in fact, directed for payment of the dues as per Rules. Being aggrieved, Applicants in OA No.927 of 2012 have once again approached this Tribunal seeking the relief as under:

“In view of the facts stated above, it is humbly prayed that Hon’ble Tribunal may be graciously be pleased to direct the Respondents to pay 50% of family pension to applicant No.2 and 3 from the date of death of their father to till they attain the age of 25 years or marriage (in case of applicant No.2) whichever is earlier with due interest and cost and to quash Annexure-A/3”

7. Similarly, by filing OA No. 17 of 2013, the Applicant (Smt.Binapani Routray) has prayed for the following reliefs:

“i) To allow the Original Application;

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- ii) To direct the Respondents to extent the benefit of pension and other benefits as due and admissible forthwith for survival of the applicant's family forthwith with 18% interest;
- iii) To pass any further order/orders as deem fit and proper in the facts and circumstances of the case."

8. In OA No. 927 of 2012 despite adequate opportunity, Mr.J.K.Khandayatray, Learned Additional CGSC appearing for the Respondent-Department did not throw any light about the reasons for delay in taking action for payment of the dues, as per the decree in the Civil Suit.

However, a short reply has been filed by the Respondents in OA No. 17 of 2013. In the said short reply, the contention of the Respondents in substance is that as per the latest orders received from the Government of India dated 27.11.2012 which was communicated vide letter dated 18.2.2013(Annexure-R/2) it has been decided that the share of children from illegally married wife in the family pension shall be payable to them in the manner given under sub rule 7( C) of Rule 54 of CCS (Pension) Rules, 1972 along with legally wedded wife. The minor children

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(Applicant Nos.2&3 in OA No. 927 of 2012) of Smt. Kuni Pradhan are entitled for grant of share of family pension along with the 1<sup>st</sup> wife (Applicant in OA No.17 of 2013) of late Government Servant. Therefore, action will be taken for processing the family pension to the eligible family members of late Government servant in view of the orders at Annexure-R/2. Hence, they have prayed that this OA being devoid of any merit is liable to be dismissed.

Thereafter, Mr.D.K.Behera, Learned Additional CGSC appearing for the Respondent- Department filed written instruction enclosing thereto a copy of the letter dated 4.4.2013 addressed to him by the Superintendent of Post Offices, Srikakulam Division which reads as under:

“With reference to the above cited letter in which it was stated that the Civil Court decree was made in presence of all including the Postal Department and how the Postal Department will go back from implementing the decree on the ground that Department circular is otherwise. But as per the compromise petition, it is clear that the compromise petition was filed by the Plaintiffs and the Defendants except Defendant Nos.2&3 (i.e. Postal Department). Hence there is no consent to the compromise by the Department of Posts (i.e.



Defendant Nos.2&3). Hence the Hon'ble Tribunal may please be prayed to admit the OA. Please take action accordingly and intimate the progress of the case."

9. Today, when we wanted to know the developments with regard to release of the dues, Mr.D.K.Behera, Learned Additional CGSC appearing for the Respondents fairly submitted that the matter has been put up before the higher authority. However, Learned Counsel appearing for the Applicants in both the OAs have vehemently prayed for finalizing the matter as in absence of means of livelihood they are moving with begging bowls for sustenance of their life.

10. In the compromise petition in so far as receiving the dues of the deceased are concerned it was clearly stated that Pratima & Kuni Pradhan is not entitled to any financial benefit including family pension. However, the children born out of the wedlock of Bikram Kumar Routray shall be entitled to get all service dues either deposited or earned of Bikrama Kumar Routray jointly and each of his aforesaid heirs shall have their equal share. Further Smt. Binapani Routray being

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the legally married wife of deceased employee Bikrama Kumar Routray, shall be entitled to get the family pension. The compromise was decreed in presence of the Counsel (Mr.J.K.Khandayatray, Learned Additional CGSC for the Union of India), who neither raised any objection at that relevant time because had it been so it would have been recorded in the order nor challenged the same before any competent court of law. Having not done so, the decree made in the suit is binding to all the parties including Postal Department.

11. In this connection, the decision of the Hon'ble Supreme Court of India in the case of **Rameshwari Devi Vs State of Bihar, AIR 2000 SC 735** is relevant. In the said case after analyzing the Hindu Marriage Act, (25 of 1955) and Hindu Succession Act (30 of 1956), the Hon'ble Apex Court have held that children born to deceased Hindu employee from second wife taken during subsistence of first marriage are entitled to share in family pension and gratuity.



12. In view of the above, the stand taken by the Respondents in letter dated 4.4.2013 is held to be unwarranted in view of the decree in the Civil Suit No.78 of 2006 and at the same time, we quash the order dated 3.10.2012 (Annexure-A/3) as the legal dues of the ex-employee shall have to be paid/distributed as per the decree in the Civil Suit No.78 of 2006. This being a matter of payment of pension and pensionary dues and unnecessary loitering for one reason or the other since 4.8.2005 (i.e. the date of the death of the Government servant), the Respondents are hereby directed to release the dues of the ex-employee in favour of the shareholders as per the compromise made between the parties and accordingly decreed in the Civil Suit No.78 of 2006, quoted above, within a period of 60(sixty) days from the date of receipt of copy of this order failing which the Respondents shall have to pay 8% interest on the entire arrears and the interest to be paid shall be recoverable from the Officer(s)/Official(s) who is/are responsible for such delay in releasing the dues.



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13. With the aforesaid observation and direction both the OAs stand disposed of. There shall be no order as to costs.

  
(R.C.MISRA)  
Member(Admn.)

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