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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.577 of 2013

Cuttack this the 21st day of March, 2017

CORAM:

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Pulungi Tudu, aged about 37 years, widow of late Durga Tudu,
Ex-Cabin Master/BTV, resident of Vill-Ambrutia, PO-Barundei,
Dist-Jajpur, Odisha

...Applicant

By the Advocate(s)-M/s.N.R.Routray

Smt.J.Pradhan

T.Ku.Choudhury

S.K.Mohanty

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda
2. Senior Divisional Personnel officer/East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda
3. Senior Divisional Operating Manager/East Coast Railway, Khurda Road,At/PO-Jatni, Dist-Khurda
4. Senior Divisional Financial manager Manager/East Coast Railway, Khurda Road,At/PO-Jatni, Dist-Khurda
5. Chief Personnel Officer/E.Co.Rly./E.Co.R.Sadan, Chandrasekharapur, Bhubaneswar, Dist-Khurda
6. Chanmuni Tudu, W/o.late Durga Tudu, Ex-Cabin Master/BTV at Chakuapala, PO/Via-Hatigarh, PS-Rabania, Dist-balasore, Odisha

...Respondents

By the Advocate(s)-Mr.D.K.Behera

M/s.B.Nayak

B.R.Sahu

S.Samal

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ORDERR.C.MISRA, MEMBER(A)

The applicant in this O.A. is the wife of a deceased railway employee, and has approached this Tribunal making the following prayer.

- i) To declare order dated 28.12.2009 and 30.7.2013 so far as the applicant is concerned as non-est in the eyes of law.
- ii) And to direct the respondents to pay the leave salary of Rs.44,608/-, DCRG of Rs.93,906/- and family pension as per RSPM 1993 with 12% interest for the delayed period.

2. Facts of this case are that applicant's husband while working as Cabin Master in the East Coast Railway fell ill, and succumbed to his illness while being treated in the Kalinga Hospital, on 31.5.2004. The Assistant Operating manager, East Coast Railway, KUR issued certificate dated 15.6.2004 to the effect that the applicant is the legally married wife of the deceased employee. After making representations to the departmental authorities, the applicant filed O.A.No.39/2006, which was disposed of by the Tribunal by an order dated 11.1.2008 in which direction was issued to the respondents to finalize the pensionary claims relating to the deceased employee and release the claim to entitled persons as per the Railway Service Pension Rules, 1993, within a period of three months. The respondents issued letter dated 28.12.2009 to the applicant and also to one Smt.Chanmani Tudu, who claimed to be the second wife of the deceased employee asking them to

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submit their succession certificate issued by the competent Court of Law for consideration of release of leave salary, DCRG, and family pension to the rightful claimants. The Sr.Divisional personnel officer by issuing letter dated 4.10.2010 to the said second wife, and the widow mother of the deceased railway employee asked ^{them} to submit a succession certificate issued by a competent court. They were specifically directed to make the applicant, i.e., the first wife a party in the succession certificate case. Since the matter was not finalized, applicant made another representation to authorities for release of her claim, and subsequently, approached the Tribunal by filing O.A.No.321/2013. The Tribunal disposed of the O.A. by directing the respondents to consider the pending representation, and pass a reasoned order. In obedience to orders of the Tribunal, the respondents passed a speaking order dated 30.7.2013, which is the subject matter of challenge in this O.A. In the circumstances, applicant has sought for the relief as mentioned above.

3. The grounds upon which the prayer of the applicant is based are that the respondents erred in not complying with the order dated 11.1.2008 in O.A.No.39/2006, and that when no succession certificate was required under the Pension Rules, the respondents insisted upon her to produce the succession certificate.



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4. The respondents have filed a counter-affidavit in the case, in which their submission is that at the time of death of the deceased railway employee, the applicant produced the death certificate and legal heir certificate along with affidavit on the basis of which the PF amount and CGEGIS amount were paid to her. However, during process of sanction of family pension, leave salary, and DCRG, Smt.Duli Tudu and Smt.Chanmuni Tudu claiming to be mother and second wife respectively, of the deceased employee made a joint representation to authorities claiming the share.

For consideration of the rival claims, respondent authorities ^lthrough it necessary to ask applicant, and the rival claimants to produce succession certificates. The applicant, however filed O.A.No. ^l39/2006 before the Tribunal. In an order dated 11.1.2008 the Tribunal directed respondents to finalize the claims, and disburse the amounts to "entitled persons" within a period of three ^lmonths. The respondents thereafter advised the applicant and the rival claimants to produce the succession certificate by letter dated 5.6.2009, followed by reminder dated 28.12.2009.


5. The respondents in the meantime, deputed a Chief Staff and Welfare Inspector to inquire into the genuineness of the claimants. The inquiry revealed that the deceased employee first married the applicant. They did not have issues, and the deceased employee married Smt.Chunmuni Tudu and there


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was a daughter born out of their marriage. But the case could not be decided in the absence of succession certificate. The applicant instead of producing the succession certificate again filed O.A.No.321 of 2013, which was disposed of at the stage of admission on 24.5.2013, with a direction to respondent no.2 to consider the representation dated 6.6.2012, and communicate the decision. The representation was disposed of with a speaking order dated 30.7.2013 in which applicant was intimated that the leave salary, DCRG and family pension will be paid on the basis of direction of the competent court of law in the succession certificate which was yet to be produced by the applicant. In the meantime, Smt.Chunmuni Tudu claiming to be the second wife filed an Intestate Succession Misc. Case No.6/2006 in the Court of Civil Judge, Balasore impleading the applicant. The Civil Judge issued succession certificate arising out of Misc.Case No.6/2006 with the following directions.

"This Certificate is accordingly issued in favour of the petitioner no.2 and OP No.1 jointly to withdraw the service benefits and amount deposited in LIC in the name of deceased Durga Tudu as noted in the debts table referred to above. The petitioner no.1 would act as the mother guardian of petitioner no.2 at the time of receipt of money and so far as official money is concerned this certificate is accordingly issued in favour of OP No.1 and petitioner no.2 jointly and after drawal of money, the same will be distributed equally amongst other Class-I heirs such as Ops No.1 and 2 and petitioner no.2. Similarly, the family pension would be drawn in the name of petitioner no.2 till she became the major so also the wife (OP No.2) and that amount will



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be distributed amongst OP No.1 and 2 and petitioner no.2. If there is no objection from any corner and all of you are authorized to receive the same amount and to receive interest, to negotiate or transfer, Both two receive interest and dividend on and to negotiate or transfer the securities or any one of them.



Given under hand and seal of this Court on this the 8th day of September, 2008".

6. The respondents have taken steps to write to the Registrar of the Court of District Judge, Balasore with a request for verification about the genuineness of the succession certificate. The Welfare Inspector was personally deputed to the Registrar of the Court, and he obtained the endorsement that 'succession certificate issued earlier by this Court in Succession Misc.Case No.6/2006 is true". As per the direction contained in succession certificate dated 8.9.2009/18.10.2014, 50% of the family pension has been sanctioned in favour of Smt.Pulungi Tudu, applicant no.1 (1st wife) by the competent authority on 25.2.2016. Before issuance of succession certificate, PF and CGEGIS have already been disbursed in favour of the applicant. With regard to payment of leave salary and the DCRG, some clarification was being obtained from the Chief Personnel Officer internally. The stand taken by the respondents is that when there is a dispute regarding the sanction of settlement dues after the death of an employee, the Railway administration is advising the parties to produce the succession certificate, since the pension sanctioning authority



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has to be satisfied about the claim. In the present case, the applicant did not produce the succession certificate, but on the basis of succession certificate produced by Smt.Chunmani Tudu, 50% of the family pension has been sanctioned for the applicant. Rule 75(7)(i)(a) of the Railway Pension Rules provides that "where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal share". In obedience to directions issued by the Tribunal dated 11.1.2008 in O.A.No.39 of 2006, the applicant was earlier paid PF dues, and CGEGIS amount. It may be noted here that at the that point of time, there was no dispute regarding the claim. Regarding the delay in payment, it is explained by the respondents that this was due to non-production of succession certificate by the applicant. The respondents have therefore, argued that no interest is payable to the applicant, since the delay was wholly attributable to her. 

7. Having heard the learned counsels from both the sides in  exteso, I have perused the records. Before examining the facts of this case, I would like to observe that pension/family pension should be disbursed at the earliest since it ensures right to livelihood of a family. In the present case, the employee died prematurely and the widow must be given the retirement dues at the earliest. There should not be any bureaucratic delays. In the present matter, in O.A.No.39/2006, the Tribunal in order dated 11.1.2008 issued direction to respondents to sanction the 

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pension and release the amount to the 'entitled persons' as per the Railway Servants Pension Rules, 1993 within a period of three months. But, even after a lapse of nine years, the matter could not be settled. This is a disturbing situation. Nevertheless, I cannot put the entire blame on the respondents, because, the order of the Tribunal is to release the dues to 'entitled persons'. The respondents while processing the matter, were faced with another claimant, i.e., the second wife of the applicant. Therefore, they could not finalize the matter in favour of the applicant, and in pursuance of rules asked both the claimants to produce succession certificate of the competent court. The applicant did not obtain the succession certificate, but approached the Tribunal again. However, the second wife did produce the succession certificate issued by the competent court. Therefore, even though the matter has been regrettably and inordinately delayed, I cannot apportion blame entirely on the respondent. The applicant should have taken expeditious steps in the matter of submission of required documents. In order to determine the lawful share of the claimants, the respondents asked for the succession certificate, and they cannot be faulted in the matter. But taking into consideration the inordinate delay, the Tribunal would certainly like this settlement to be arrived at expeditiously.

8. The orders of the court in the succession certificate case have been already quoted. Since the orders of the Court is dated



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8th September, 2009, but the signature of the Civil Judge is dated 18.10.2014, the respondents have taken steps to verify the genuineness of the order, by making correspondence and also deputying an officer to the Court who obtained a certificate about the genuineness of the order from the Sireshtardar on 10.9.2015. Thereafter, respondents have acted upon the terms laid down in the succession certificate. The respondents have submitted that 50% of the family pension has been sanctioned in favour of the applicant. But final disbursement and settlement could not take place in favour of the applicant and ^{other} after claimants, because, applicant did not produce the required documents in response to respondents' letter dated 6.1.2017. That is allegedly causing further delay in the matter. The applicant must therefore, fully cooperate in the matter, so that the matter is settled without further delay.

9. Since the respondents are taking appropriate action on the basis of the succession certificate, it appears that no further issues on the merit of the case are required to be considered. The applicant is directed to submit the required documents, and respondents are directed to expeditiously finalize the matter, and disburse amounts as due to the applicant. That will be the right direction to give in order to close the matter of family pension, and other pensionary dues in a matter for which the cause of action arose in the year 2004, after an unconscionable delay of more than 12 years.

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10. With the above observation and direction, the O.A. is disposed of, with no order as to costs.


(R.C.MISRA)
MEMBER(A)

BKS

