

In the Central Administrative Tribunal  
Calcutta Bench

OA No.859 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Hari Prasad

Applicant

Vs.

- 1) Union of India, through General Manager, Eastern Railway, Calcutta.
- 2) Chief Personnel Officer, E. Rly., Calcutta.
- 3) Chief Engineer(S&C), Eastern Rly., Calcutta.
- 4) Deputy Chief Engineer(Constr.), Eastern Railway, Howrah.
- 5) District Engineer(Constr.), Eastern Rly., Howrah.
- 6) Chief Accounts Officer, Eastern Rly., Calcutta.
- 7) Inspector of Works(Constr.), E. Rly., Howrah, Tikiapara.
- 8) Smt. Kunti Debi, B.N.R. Railway Colony, Tikiapara, Howrah.

..... Respondents

For the Applicant : Mr. N.G. Roy, Advocate

For the Respondents : Mr. C. Samaddar, Advocate

Heard on : 13-11-98

Date of Judgement : 13-11-98

ORDER

D. PURKAYASTHA, JM

13/11  
Applicant Shri Hari Prasad claims to be son of late Ram Chander, Ex-Chowkidar, posted at Bamangachi level crossing, Gate No.3 under the Inspector of Works (Construction), Eastern Railway, Tikiapara. According to the applicant, his father died on 27-6-93 but respondents did not make any payment of settlement dues on account of death of his father on the ground that his father married another Smt. Kunti Devi after the death of his first wife who was the real mother of the applicant. Since the respondents did not make any payment despite

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his repeated representation, he approached this Tribunal for giving direction upon the respondents to make payment of all settlement dues on account of his father.

2. Respondents denied the claim of the applicant by filing written reply stating, inter-alia, that late Ram Chander died on 27-6-93 but before his death he executed an affidavit dated 4.8.92 ~~on~~ his re-marriage with one Smt. Kunti Devi after the death of his first wife late Lila Devi. It is also stated that late Ram Chander had further given a family declaration for availing Pass and PTO facilities wherein the following names had been incorporated with relation as stated against each :

i) Smt. Kunti Devi	... Wife
ii) Sri Raju Prasad	... Son
iii) Sri Sarju Prasad	... Son
iv) Smt. Fulmani	... Daughter

3. Id. Advocate Mr. Roy on behalf of the applicant strenuously argued before me that story ~~of~~ marriage with Smt. Kunti Devi should not be accepted in view of the fact that the applicant's father did not marry second time after the death of his first wife. So, story of marriage should be disbelieved. Id. Advocate further submits that Smt. Kunti Devi was made a party in that proceeding but she did not come forward to contest the claim of the applicant. Thereby, it may be presumed that Smt. Kunti Devi had no interest about the claim raised by the applicant in his application. It is also stated that Smt. Kunti Devi is the wife of another person named Shri Paras and she is residing with her husband in another quarters

4. Id. Advocate Mr. Samaddar on behalf of the respondents submits that <sup>Since</sup> though Smt. Kunti Devi claimed settlement dues of the deceased Ram Chander, department could not make any payment because rival claimant is there. So, ~~applicant~~ can obtain succession certificate for the purpose of getting all benefits of the deceased employee in view of the rival claims advanced by Smt. Kunti Devi.

13/11

5. I have gone through the records as well as considered the submissions of Ld. Advocates of both the parties. I find that there is a genuine dispute regarding marriage of Smt. Kunti Devi with the father of the applicant which cannot be adjudicated by this Tribunal. It is admitted fact that Smt. Kunti Devi preferred an appeal claiming the settlement dues of the deceased Ram Chander and before the death of Ram Chander, he submitted an affidavit in support of his re-marriage with Smt. Kunti Devi. In view of the aforesaid circumstances, I find that it would be appropriate on the part of the applicant to obtain succession certificate from the competent Court of Law and if succession certificate cannot be obtained by the applicant, he would not be entitled to get all benefits as admissible under the rules. In view of the aforesaid circumstances, it would be appropriate on the part of the respondents to make all payments to the applicant provided applicant can produce succession certificate; otherwise he would not be entitled to get any benefit in this case. Accordingly, the application is disposed of awarding no costs.

*11/10/1988*  
( D. Purkayastha )  
Member (J)