

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.867 of 1996

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

LAXMI DEVI & ANOTHER.

... Applicants
vs.

1. Union of India through the General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Divisional Railway Manager, South Eastern Railway, Kharagpur, Dist. Midnapore.
3. Deputy F.A. & C.A.O., South-Eastern Railway, Kharagpur, Dist. Midnapore.
4. Chief Project Manager (W/M), South-Eastern Railway, Kharagpur, District - Midnapore.

... Respondents

For the applicants : Mrs.Kanika Banerjee, counsel.

For the respondents : Mrs.B.Ray, counsel.

Heard on : 19.6.1998

Order on : 19.6.1998

ORDER

The question involved in this case is whether the applicants Smt.Laxmi Devi and Smt.Shanti Devi, claiming to be the sisters of the deceased employee, Parman Singh, who was employed in the S.E.Railway as Fitter, T.No.45060 of Wagon Shop/Kharagpur Workshop, are entitled to receive the provident fund dues payable to the said Parman Singh on account of his death, as per the succession certificate obtained by the applicants, on the face of the declaration given by Parman Singh while still in service that he had a wife and 2 daughters.

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2. According to the applicants, Parman Singh was a bachelor who died on 16.2.1982 as per the death certificate. (annexure 'A' to the application). Parman Singh left Rs.16,000/- as provident fund dues payable to him with the department. The applicants, after the death of Parman Singh, applied for succession certificate before the District Delegate, Midnapore, stating that Parman Singh was a bachelor and they are his legal heirs and were entitled to get Rs.16,000/- lying with the respondents as ~~debt~~ ^{of his settlement dues} ~~respondent's dues~~. The applicants thereafter made a prayer before the authority annexing the order of the court in respect of granting succession certificate, but no succession certificate has been produced by the applicants as per the order dated 16.12.1986 of the District Delegate, Midnapore, in Succession Certificate Case No.39 of 1983. According to the applicants though they had applied for payment of the provident fund dues of Parman Singh to them, they did not receive the same till date and the respondents have not stated any reason for non-payment of the dues to them.

3. The respondents have resisted the claim of the applicants stating inter alia that the applicants obtained a succession certificate by suppressing the real fact that the deceased employee was a married man and not a bachelor at the time of his death and he had 2 daughters and a wife and during the life time of the deceased employee he had made a declaration for the purpose of obtaining pass that he had a wife and 2 daughters. In view of the same, the respondents state they have not made payment of the provident fund dues ^{and settlement benefits} of Parman Singh to the applicants on the basis of the succession certificate obtained by them. According to the respondents, since the wife and 2 daughters of Parman Singh have not been made parties to this application, the application should be dismissed.

4. Ld.counsel, Mrs.Kanika Banerjee, appearing on behalf of the applicants, submits that on the basis of the succession certificate, the applicants are entitled to receive the provident fund dues of Parman Singh from the respondents and the respondents

have no authority to withhold the provident fund money since the as also the settlement dues last 16 years/since nobody has come forward to claim that money except the Applicants and on the basis of the succession certificate, the respondents are bound to make payment to the applicants irrespective of any declaration made by the deceased employee.

5. Mrs.B.Ray, 1d.counsel appearing for the respondents, states that the department has nothing to do since the deceased had made a declaration for the purpose of obtaining pass that he had a wife and 2 daughters. The said declaration was made by Parman Singh in the year 1969.

6. Whatever be the facts in this case, the fact remains that the applicants claiming to be the legal representatives of the deceased employee, applied before the District Delegate, Midnapore, for obtaining succession certificate under Section 372 of the Indian Succession Act, 1925, for receiving the provident fund dues as well as the settlement dues of Parman Singh. It appears from annexure 'B' to the application that the Court of the District Delegate, Midnapore, had passed an order on 16.12.1986 allowing the application of the applicants u/s 372 of the Indian Succession Act, 1925, with a direction to issue a succession certificate immediately. But it is not understood why the applicants did not obtain the "succession certificate" which was prepared on 17.12.1986 as per annexure 'B' to the application.

7. In view of the aforesaid circumstances, there is no doubt that the PF dues as well as the settlement dues of Parman Singh lying in the account of the deceased, is a debt to the Government and the applicants are entitled to receive the said debt from the Govt. on production of the succession certificate under the provisions of Section 372 of the Indian Succession Act, 1925. It is found that succession certificate has been prepared under the seal and signature of the District Delegate Authority of Midnapore, as per the order passed in Certificate Case No.39 of 1983 of that court. ⁹⁶ When the applicants obtained the succession certificate from the competent court, there should not

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be any legal impediment to make payment of the provident fund amount and the settlement dues of the deceased employee which is a debt as per the succession certificate. It is also to be noted that none claiming to be the wife and daughters of Parman Singh have come forward to claim the amount till date and the succession certificate cannot become inoperative unless set aside by the competent authority. The succession certificate issued has a legal force and it is ~~operative~~,

8. The respondents are, therefore, directed to make payment of the provident fund dues and the settlement dues of Late Parman Singh to the present applicants on production of the succession certificate by them as has been granted to them in Certificate Case No.39 of 1983 by the Court of the District Delegate, Midnapore. The said amount be paid to the applicants within 3 months from the date of production of the succession certificate alongwith the interest on the amount as admissible under the provisions of the ^{of the} ~~PF~~ rules from the date it had become due till the date the payment is actually made to the applicants.

9. The application is thus allowed, awarding no costs.

19/6/98
(D.Purkayastha)
Judicial Member