

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.D.A.1360 of 1996

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

SMT.KANTA DEVI w/o
Late Kanniah Lal, aged
about 36 years, housewife,
at present living in quarter
no.WW/62, Unit No.5, S.E.
Railway, South Colony,
Garden Reach, P.S.SPPS,
Calcutta-43.

... Applicant

Vs.

1. Union of India through General Manager,
S.E.Railway, Garden Reach, Calcutta-43.
2. General Manager, S.E.Railway, GRC,
Calcutta-43.
3. Chief Security Commissioner, S.E.Railway,
GRC, Calcutta-43.
4. Assistant Security Commissioner, S.E.
Railway, RPF, Shalimar.

... Respondents

For the applicant : Mr.B.C.Sinha, counsel.

For the respondents: Mr.S.Chowdhury, counsel.

Heard on : 17.7.1998

Order on : 17.7.1998

ORDER

Smt.Kanta Devi, claiming to be the wife of Late Kanniah Lal, who was a Sweeper under the respondents in the security department under the Assistant Security Commissioner, S.E.Railway, Shalimar (respondent no.4) and died in harness on 4.8.1996 has filed this application claiming the settlement dues of her Late husband.

2. The applicant has submitted an affidavit supporting her status as the widow of the deceased employee. She has also

produced another certificate of her being the legal heir of the deceased employee, Kanniah Lal, issued by a MLA, Ram Pyare Ram and who is also the Councillor of the Calcutta Municipal Corporation.

3. On receipt of the claim of the applicant, though the deceased employee had executed a nomination for payment of his provident fund to the applicant, Smt. Kanta Devi (annexure 'R/2' to the reply), the respondent-authorities have not paid her the settlement dues on her such claiming. According to the applicant, she is the legally married wife of the deceased employee, Kanniah Lal, and thereby she is entitled to get all retirement benefits and the family pension on account of death of her husband. But the respondents did not grant her any relief notionally, rather have refused the same by directing her to produce the succession certificate for being entitled to the retirement benefits of the deceased as well as provident fund. The applicant feeling aggrieved and dissatisfied by the said direction of the respondents as contained in the letters dated 26.8.1996 and 8.10.1996 (annexure 'A/5' to the application), she has approached this Tribunal alleging that the respondents arbitrarily and illegally have denied the claim of the applicant in respect of receipt of retirement benefits and family pension in accordance with law.

4. The respondents have denied the claim of the applicant by filing a reply in which it has been stated that it is evident from the official record that Late Kanniah Lal had declared Smt. Sita Devi, aged 18 years, as his wife in the Railway Suraksha Kalyan Nidhi option form in the year 1976 and in the Group Insurance paper he had declared Smt. Kanta Devi, the applicant as his wife in the year 1982 (annexures 'R/1' and 'R/2' to reply). After perusal of the service records of the deceased staff and finding the severe irregularity, Smt. Kanta Devi

claimed to be the wife of the deceased, has been advised vide office letters dated 26.8.1996 and 8.10.1996 and also 8.1.1997, to submit succession certificate for expeditious disposal of the family pension case etc. As the applicant has not produced the succession certificate, thereby she could not be paid any family pension or retiral dues, in accordance with law.

5. Ld.counsel, Mr.B.C.Sinha, appearing on behalf of the applicant, submits that as per the nomination annexed to the reply filed by the respondents, it has been mentioned by the deceased employee that Smt.Kanta Devi is his wife. Hence, Mr.Sinha submits that the applicant is entitled to get the settlement dues, as admissible to her deceased husband. So as per the nomination though the applicant was entitled to receive the same, the respondents have not paid her the provident fund till date and instead have insisted on her producing the succession certificate. It is also submitted by Mr.Sinha that Smt.Sita Devi, the alleged wife of the deceased employee, as per the submission of the respondents in the reply, has not raised any claim for family pension or other retirement benefits on account of the death of the deceased staff till date. So on the basis of the documents and the affidavit produced by the applicant before the authority, she should be paid all retirement benefits and admissible family pension, but that has been refused. Hence the application should be allowed.

6. Mr.S.Chowdhury, ld.counsel, appearing on behalf of the respondents, submits that Smt.Sita Devi, the alleged wife, was not made a party in this case although she is a necessary party and her name has been disclosed in the reply. Mr.Chowdhury further submits that in view of the disputed claims as per the nominations filed by the deceased employee during his lifetime, it would be proper on the part of the applicant to obtain a succession certificate from the competent court of law. Thereby, this application should be dismissed with a direction upon the

applicant to furnish the succession certificate, as directed by the authorities, for early settlement of the dues.

7. I have considered the submissions of the ld.counsel for both the parties. The fact remains that none on behalf of the alleged wife of the deceased, Smt.Sita Devi or Smt.Sita Devi herself has raised any claim before the authorities for getting any settlement dues or family pension on account of death of Kanniah Lal, Sweeper. But it is found that the applicant approached the authorities with a supporting document i.e. a certificate issued by a responsible authority like a MLA, Ram Pyare Ram, of West Bengal stating that she is his wife and that Kanniah Lal expired on 4.8.1996 leaving his wife, Smt.Kanta Devi, one daughter and one son. The applicant has also submitted an affidavit sworn before the Notary Public at Alipore supporting her statement. So in view of the aforesaid circumstances, the fact remains that none except the present applicant claims to be the wife of the deceased employee before the authority for getting the settlement dues in question. So as per legal inheritance, the wife would acquire an absolute right to the property of the deceased husband after his death. Since no rival claim has been made by Smt.Sita Devi, as per the nomination annexed to the reply, thereby it cannot be said that there was a legal dispute regarding entitlement of family pension or other settlement dues before the authority on the basis of the claim made by the applicant herself.

8. In view of the aforesaid circumstances, I think the matter can be settled by the department by asking the applicant to furnish an indemnity bond in support of her claim when none appears on behalf of the alleged wife, Smt.Sita Devi or Smt.Sita Devi herself, claiming the settlement dues or family pension as admissible to the deceased employee.

9. In view of the aforesaid circumstances, I find that the action of the respondents on that ground is not teneble. Thereby

I direct the respondents to pay all settlement dues of Late Kanniah Lal, Sweeper, as admissible, to Smt. Kanta Devi, the applicant, on her furnishing an indemnity bond in support of her claim, under the rules, within a period of three months from the date of communication of this order. The applicant is directed to furnish the indemnity bond in support of her claim within one month from the date of receipt of this order and the respondents shall make all payments to the applicant within three months from the date of receipt of the indemnity bond from the applicant.

10. The application stands disposed of with the above observations. No order is made as to costs.

H. K. S.
17/1/98
(D. Purkayastha)
Judicial Member