

YV

## CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH

Original Application No. 298 /2012

Jodhpur this the 21<sup>st</sup> June, 2013

CORAM :

**Hon'ble Ms. Meenakshi Hooja, Member (A)**

**[Reserved on 17<sup>th</sup> May, 2013]**

Nain Singh S/o Shri Hem Singh by caste Mohil Rajput R/o Quarter No. 35, UIT Colony, Pratap Nagar, Modhpur and retired as MCM, N. W. Railway Workshop, Jodhpur.

.....Applicant

(Through Adv. J.K.Chanda)

**Versus**

1. Union of India through General Manger, North Western Railway, Head Office, Jaipur.
2. Chief Work Manager (C.W.M.), North Western Railway, Workshop, Jodhpur.
3. Senior Personnel Officer, North Western Railway, Workshop, Jodhpur.

.....Respondents

(Through Adv. Kamal Dave)

### ORDER

By way of this Application, the applicant in this OA No. 298/2012 has sought the following reliefs :-

**“A. The respondents may kindly be directed to add the name of Smt. Shakuntala being wife of applicant in PPO issued in favour of the applicant.**

**B. The respondents may kindly be directed to issue medical card in the name of Smt. Shakuntala being the wife of the applicant.**

**C. The respondents may kindly be directed to provides all medical facility, pass and PPO facilities to Smt. Shakuntala being wife of the applicant. Since a sum of Rs. 18280/- has already been deducted by the respondents from the applicant.**

**D. Any other directions / relief order which this Hon'ble Tribunal deems legal just and proper as per the facts of the application may kindly be passed in favour of the applicant.**

**E. That the cost of this application may kindly be awarded to the applicant.”**

2. It has been averred in the OA that the applicant was appointed on the post of Substitute Khalasi in the office of Chief Works Manager (CWM) Northern Western Railway, Jodhpur, Jodhpur (respondent No. 2) on 17.3.1973. He was married to Smt. Chand Kanwar on 26.11.1969 and on account of marriage life being disturbed, it was dissolved on 08.04.1980 on customary basis as the applicant belongs to Rawana Rajput caste. The certificate issued by the Marudhar Pargatishil Rawana Rajput Sangh regarding this customary divorce is at Annex.A/1. The applicant then married Smt. Shakuntala on 01.06.1980 and submitted annual declaration to the respondents regarding the name of his wife as Smt. Shakuntala. The respondent No. 3 i.e. Senior Personnel Officer, Northern Western Railway (Workshop), Jodhpur, maintains the service book of the employees and it can be seen that the name of Smt. Shakuntala has been entered as wife in the service book and some abstracts of service books as on 31.07.1986 and 18.10.1994 are at Annex. A/2 and A/3 respectively. Further from 01.06.1980 till his retirement on 30.12.2010 the respondents issued passes and PTOs in the name of the applicant as well as in the name of his wife Smt. Shakuntala. However, the respondents did not include the name of his wife for the purpose of pension and mentioned NO FAMILY in the provisional PPO dated 29.12.2010 (Annex.A/13). The applicant had been responding to the various queries of the Department regarding his case and even submitted the marriage certificate dated 29.03.2011 from the Jodhpur Municipal Corporation (Annex.A/5) which gives the date of his marriage to Smt. Shakuntala as 01.06.1980. He also submitted further proof of his marriage to Smt. Shakuntala vide letter dated 31.12.2011 by submitting a Housing Board Allotment letter dated

2.5.1996 in which Shakuntala has been shown as his wife (Annex.A/25), Bill of Jodhpur Discom in the name of Shakuntala Wife of Nain Singh (Annex.A/26) and Election Voter Identity Card showing Shakuntala as wife of Nain Singh (Annex.A/27), Ration Card (Annex.A/28). Thus, the applicant has submitted all relevant documents regarding his marriage to Smt. Shakuntala on 01.06.1980 and other related proof of their living together as husband and wife (and even document of customary divorce with Chand Kanwar have been provided to the department) but the respondents have not included Smt. Shakuntala's name in the PPO nor issued medical card and passes in her name. Thus, through the O.A. the applicant has sought that the name of his wife be included in the PPO and the medical card and passes so that she can avail of the due facilities to which she is entitled.

3. In reply the respondents have contended that initially the name of Smt. Chand Kanwar was first provided by the applicant as his wife and now the claim to include Smt. Shakuntala in the PPO and Medical Card is being made. In this context, it has been stated that under the Administrative Tribunals Act, 1985 (hereinafter referred to as "the Act") only service matters are covered as provided under Section 3 (q) and Section 14 of the Act. It is not within the jurisdiction of the Tribunal to decide the matters regarding relationships and the relief claimed regarding declaration of Shakuntala as wife of the applicant is beyond the jurisdiction of this Tribunal. It has also been averred in the reply that the applicant while giving the details of his family had given the name of Smt. Chand Kanwar indicating her as wife along with the name of two sons Shyam Singh and Bharat Singh and one daughter, Kanta and these

names are still on the official record. The name of Smt. Shakuntala is admittedly given by the applicant for the first time much after entering the service in year 1973. Such change without providing any information regarding first wife was erroneously allowed to continue as the name was entered during special drive for fulfilling the requisite column regarding family members. Applicant although given the names of three children born out of first wedlock but given name Smt. Shakuntala as wife. This mistake was detected while pension papers of the applicant were processed. In the light of above without indicating any foundation for non-consideration of Smt. Chand Kanwar as wife no right can accrue in respect of Smt. Shakuntala. The erroneous entries made in the service book under whatever circumstances cannot be allowed to operate in terms of the legal position and no service benefits can be extended in this respect of any such claim.

4. In the rejoinder the applicant has reiterated the points mentioned in the OA and stated that the applicant did not marry Shakuntala when he was married to Chand Kanwar. He got married to Shakuntala after the dissolution of his first marriage with Smt. Chand Kanwar and as already stated above, the marriage certificate to Shakuntala given by the competent authority i.e. the Jodhpur Municipal Corporation may be seen as Annex.A/15.

5. Heard the counsels. The counsel for the applicant contended that the applicant's marriage to Smt. Chand Kanwar was dissolved as per the customary rights and practice prevalent among the Rawana Rajputs, a community, to which he belongs, and this has been confirmed by Annex.A/1 issued by their concerned association i.e. Marudhar Pargatishil

Rawana Rajput Sangh on 1.4.2011. The applicant also submitted a valid certificate of marriage to Smt. Shakuntala obtained from the Jodhpur Municipal Corporation and her own affidavit has been filed as Annex.A/10. Further, it was contended that the applicant had declared Smt. Shakuntala's name as wife and this has been incorporated in the service books for 30 years up to right up to his time of retirement and Annex.A/2, A/3 which are relevant extracts of service book are proof of the same. Thus, at this stage the respondent – department cannot deprive pension and medical benefits to the applicant's legally wedded wife i.e. Smt. Shakuntala. It was strongly pleaded that a direction be given to the respondents to include her name in the PPO and Medical Card, Passes, so that she gets her due facilities.

6. Per contra, the counsel for the respondents argued that the applicant never produced a valid divorce decree of his marriage to Smt. Chand Kanwar nor any document was produced by him certifying his marriage with Smt. Shakuntala at the appropriate time. The fact that the name of Smt. Shakuntala was entered in the service book and passes were issued is no legal justification for the respondents to accept Shakuntala as his wife, and the erroneous entries in the service books do not give any legal right. The counsel for respondents further strongly contended that this Tribunal is not competent to decide the matters regarding such relationships as they are not covered under the service matters as defined under Section 3 (q) and Section 14 of the Act and that the applicant should be directed to give to the Department a valid certificate of his divorce and subsequent marriage from the Competent court as it is only

*W*

X

the Competent Court and not this Tribunal which can go into these details and decide the matter.

7. The rival contentions of the learned counsels have been given our thoughtful consideration and the records and pleadings seen. It appears from the various Annexures submitted by the applicant that the name of Shakuntala does appear in the Service book as wife of applicant as seen from extracts pertaining to the year 1986 and 1994 as also passes and other facilities were extended to her as his wife for a long period while the applicant was in service. The applicant has also submitted annexures pertaining to his wife Smt. Shakuntala being shown as wife in the election card, housing board allotment letter, ration card etc. Be that as it may the fact remains that this Tribunal is not competent to decide the issues regarding the marriage status or family relations of employees and it is for the applicant to submit a certificate attained from the Competent court regarding his divorce from Smt. Chand Kanwar and marriage to Smt. Shakuntala as averred by him, which would meet the requirements of the rules and regulations of the Department for purposes of family pension and other <sup>retiral</sup> benefits.

Hence

Hence for the above reasons, the OA is disallowed, but not without a parting observation that it is also the duty of the respondents, which are the Railways, to take action for keeping their records legally validated in a timely manner to avoid such complexities. No order as to costs.

Dated

( Meenakshi Hooja)  
Member (A)