

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 482/2013

Reserved on: 18.09.2015

Jodhpur, this the 01st day of October, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Smt. Pushpa Purohit w/o Late Sh. Shyam Sunder Purohit, age 70 years, by caste Purohit, R/o C/o Mahesh Ojha Joshion Ki Gali, Chand Bawdi, Jodhpur, Raj. (Her husband Sh. Shyam Sunder Purohit retired from the post HSK-II, Charge-Men at Ticket Printing Press, Deputy Chief Material Manager Office, North Western Railway, Jodhpur. (Raj.)

.....Applicant

By Advocate: Mr. Pramod Gupta

Versus

1. The Union of India, through General Manager, North Western Railway, Jaipur (Raj.)
2. General Manager, North Western Railway, Jaipur (Raj.)
3. Divisional Railway Manager, North Western Railway, Jodhpur (Raj.)
4. The Deputy Chief Material Manager, North Western Railway, Jodhpur (Raj.)

.....Respondents

By Advocate : Mr. Salil Trivedi

ORDER

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 against the

order dated 11.09.2013 (Ann A/1) whereby she has been asked to

furnish Succession Certificate for claiming family pension, therefore, she has prayed for the following reliefs:-

That from the facts and grounds mentioned hereinabove the applicant prays that the respondents may kindly be directed to grant the amount of family pension and arrears thereof with interest @ of 18% and kindly be quashed the order dated 11.09.2013 Annexure A1. Any other relief as deemed fit looking to the facts of the case may also be granted in favour of the applicants. Costs may also be awarded to the applicant.

3. The short facts of the case, as averred by the applicant, are that she is widow of Late Sh. Shyam Sunder Purohit who was working as HSK-II Chargeman in the office of respondent No.4. Husband of the applicant retired on 21.05.1997 and was holder of P.P.O. No. 0197140062. The applicant's husband expired on 28.08.2002 and after his death the applicant did not remarry and is old lady of 62 years. The applicant has averred that after death of her husband she applied for family pension and submitted all necessary documents and affidavits required by the respondents but she has not been issued family pension and was directed to file succession certificate vide order dated 29.03.2006 (Ann.A/4). The applicant has further averred that she being old lady did not know the procedure for availing her legal rights of getting family pension. She is legally wedded wife of late Sh. Shyam Sunder Purohit and her name has also been mentioned in the service record of her husband as a wife, thus it is an admitted position. Even otherwise also, there is no need of producing Succession

Certificate as the applicant is the sole claimant. When the respondents did not give any heed to the applicant's claim, she sent a legal notice on 15.07.2013 and reminder notice dated 07.09.2013 and in reply respondent No.4 sent reply/order dated 11.09.2013 (Ann.A/1) in a mandatory form relying upon wrong and baseless facts and required Succession Certification, which is just to harass the applicant. The applicant further averred that she had filed a petition for maintenance against her husband under Section 125 of Cr. P.C. which was decided in favour of the applicant on 02.05.1989 (Ann.A/18). She is legally wedded wife of late Sh. Shyam Sunder Purohit and her name is also mentioned in service record of her husband as successor being wife, therefore, it is not necessary to submit any Succession Certificate and it is the duty of the respondent department to grant family pension to the applicant without any delay. Therefore, aggrieved of the action of the respondents, the applicant has filed the present OA, praying for reliefs as extracted above.

4. In reply to the OA, the respondents have submitted that Shri Shyam Sunder Purohit Ex-HSK-II retired from service on 31.05.1997 and during his service period he revised his DCRG, PF and GIS nomination in favour of his son Shri Radhey Shyam on 25.02.1985. Shri Shyam Sunder also submitted duly filled pension papers at the time of his retirement in which also he has not given

respondents accordingly released pensionary benefits and pension to the ex-employee. The status of the applicant as wife of Shri Shyam Sunder cannot be ascertained from the office record i.e. medical card, pass account, DCRG, PF, GIS nomination and pension forms after 1984, as such, family pension cannot be extended to the applicant as per office record and she was rightly asked to submit Succession Certificate for claiming family pension. The respondents have also taken objection regarding limitation and submitted that the cause of action, if any, arose in the year 2006 when she was asked to submit Succession Certificate. The respondents have submitted that at the time of retirement when the employee submitted the pension papers duly filled by himself he did not mention name of his wife for family pension in the pension form. Prior to that the ex-employee also revised DCRG, PF and GIS nomination in the year 1985 during his service in favour of his son as is evident from Ann.R/1, R/2 and R/3. The applicant submitted application for family pension after death of Shri Shyam Sunder Purohit along with copy of the Ration Card issued on 07.08.2001. A perusal of Ration card reveals that there is a clear manipulation/overwriting at husband's name and it is abundantly clear that it does not contain name of her husband, son or other family members. Since there were manipulation and reasonable doubt in respect of the Ration

Election Card but she failed to produce the same and nor has she produced the Succession Certificate. The respondents have further submitted that copy of the order dated 02.05.1989 passed by the family court is not disputed, however, it is submitted that the Adhar Card as annexed by the applicant which was issued in the year 2013 cannot be taken as proof for releasing family pension being wife of late Shri Shyam Sunder Purohit particularly when the applicant was not nominated by Shri Shyam Sunder Purohit while submitting pension papers at the time of retirement. Therefore, the respondents submitted that the OA filed by the applicant deserves to be dismissed.

5. The applicant has filed rejoinder to the reply filed by the respondents reiterating the averments made in the OA and annexing documents as Ann. A/23 to A/28.

6. Heard. Learned counsel for the applicant contended that husband of the applicant while working as HSK-II Chargeman died on 28.02.2002 and his wife i.e. the applicant an old lady applied for family pension in the year 2005 and she submitted all the documents as required by the respondents. For a long time, she was misled by an advocate that her matter is pending in the court but later on she came to know from her nephew that no case was ever filed and in the year 2013 she received letter dated

... has been mentioned that she has

not furnished Succession Certificate and family pension cannot be granted unless she submits the same from the competent court so that further process regarding family pension can be initiated. Counsel for the applicant further contended that the aforesaid letter Ann.A/1 is against the law because she being wife of the deceased employee has inherent right for family pension. He then referred to the service record at Ann.A/20 (pages 36-38 of the OA), which has been obtained on 27.07.2013 under RTI application dated 10.07.2013 from which it can be clearly seen that in the nomination for gratuity/ cum retirement gratuity, Shri Shyam Shunder the ex-employee has clearly mentioned that applicant Pushpa is wife and in the document at page 38 also the applicant has been shown as wife by late Shri Shyam Sunder. He also cited a number of judgments in support of his contention regarding entitlement to family pension being wife and now widow. Counsel for the applicant thus contended that the applicant is legally wedded wife of the deceased employee, therefore, fully entitled to get family pension as per rules.

6. Per contra, learned counsel for the respondents contended that as may be seen from Ann.A/18, there was a dispute between the applicant and her husband for maintenance which was decided by the Family Court on 02.05.1989 in case No.25/1988 and as may be seen from Ann.R/1 to R/3 all dated 25.02.1985,

PF and GIS in favour of his son and in case of his death of the son, then to two daughters and Ann.R/4 in which he has not nominated his wife for the family pension. He also referred to Ann.R/5, which is copy of the Ration Card submitted by the applicant in which it can be clearly seen that name of Shri Shyam Sunder has been added by manipulation and the back side clearly shows name of the applicant and two other persons said to be her nephews. This Ration Card pertains to the year 2001 and even though her husband died in the year 2002 there is no mention of her husband or any family member in the Ration Card. Thus, the respondent Railways on the basis of record i.e. the revised nomination papers and pension papers as at Ann.R/1 to R/4 and in view of the dispute as is evident from court order dated 02.05.1989, Ann.A/18, have not rejected the case but have only asked the applicant to submit Succession Certificate so as to establish and proceed with her case for family pension and in view of the same, prayed for dismissal of the OA and in support of his contentions referred to order dated 18.04.2000 of this Tribunal in OA No.213/1999.

7. Rebutting the arguments, counsel for the applicant again referred to Ann.A/20 the nomination of Gratuity dated 8th March, 1984 in which it has been clearly mentioned that the applicant is wife of the deceased employee Shri Shyam Sunder Purohit and he further submitted that there is no dispute between her and her

and daughter Smt. Indu Bala have given affidavits (Ann.A/26 and A/27 filed with the rejoinder) that they have no objection, if their mother is given family pension. He further reiterated that since the applicant is wife of late Shri Shyam Sunder Purohit and as per rules, she has full right for family pension and as it is clear from record including that of the respondent Railways that the applicant is the wife of the deceased employee, there is no requirement of Succession Certificate, and therefore, she is entitled to the family pension and the same may be granted and letter dated 11.09.2013 Ann.A/1 may be quashed and set-aside.

8. Considered the rival contentions and perused the record and citations given by the respective counsels. It is seen from Ann.A/20 (page 37 of the OA) that in March, 1984, Shri Shyam Sunder has nominated the applicant, Smt. Pushpa, his wife for DCRG benefits. It is further noted that in case No.25/88, filed by the applicant against her husband Shri Shyam Sunder, the Family Court vide its order dated 2.5.1989, had ordered Shri Shyam Sunder to pay Rs. 200/- per month from 01.03.1985 as maintenance allowance to the applicant being his wife. Thus, it is clear that the applicant, Smt. Pushpa was recorded as wife of Shri Shyam Sunder Purohit in official record. However, it is also seen from Ann.R/1, Ann.R/2 and Ann.R/3 all dated 25th February, 1985 that Shri Shyam Sunder has revised his nomination for DCRG in

his son, he has nominated his two daughters Indu and Vimla. Further, in Ann.R/4 dated 09.04.1997 no details of family have been given for family pension. Though late Shri Shyam Sunder did not nominate the applicant in the revised nomination/pension papers, but record of the respondent Department itself shows that the applicant was mentioned as wife of Shri Shyam Sunder in the DCRG nomination made earlier in 1984. Further the order of the Family Court dated 02.05.1989 in case No. 25/1989 is also a decision in the dispute between the applicant and her husband Shri Shyam Sunder which also shows that the applicant's relationship as his wife. Moreover, Shri Radhey Shyam, son and Smt. Indu, surviving daughter of the applicant have also given affidavit at Ann.A/26 and A/27 that they have no objection if the family pension is given to their mother i.e. the applicant Smt. Pushpa Purohit. Thus, there are available documents to indicate that the applicant was married to late Shri Shyam Sunder Purohit and the only grey area for inquiry is whether after the Family Court decision dated 02.05.1989 (Ann.A/18), there was any change in the marital status of the applicant. It is also a fact that the respondents have not finally denied the claim of the applicant for family pension but have only asked for Succession Certificate to proceed further in the case as per latest order dated 09.11.2013 (Ann.A/1).

9. In the above noted facts and circumstances of the case and also keeping in view the decision of this Tribunal in OA No. 481/2013 dated 23rd July, 2015 in a similar matter, it is proposed to dispose of this OA with certain directions.

The respondents are directed to make a more detailed inquiry into the claim of the applicant for family pension and decide the same in accordance with the relevant and applicable rules of the Railways, but they may not insist on the Succession Certificate, within four months from the date of receipt of copy of this order. The applicant is also directed to fully cooperate in the matter and provide all the information required.

In above terms, the OA stands disposed of with no order as to costs.

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(MEENAKSHI HOOJA)
Administrative Member