

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

OA.720 of 1997

Date of Order: 26.8.98.

SINGLE BENCH

Present: Hon'ble Mr.D.Purkayastha,Member(J).

SRI BENOY KRISHNA ROY, son of Nagendra Nath Roy, residing at Village & P.O.Pratapgarh Nimta, District-24-Parganas(N),

.....Applicant.

-Versus-

1. UNION OF INDIA, through Secretary, Department of Revenue, New Delhi.
2. ADDITIONAL COLLECTOR OF CUSTOM, Personnel and Vigilence, Custom House, Calcutta.
3. ASSISTANT DIRECTOR(OFFICIAL LANGUAGE), Customs House, Calcutta-1.
4. THE SECRETARY, Custom Cooperative Credit Society Ltd., Custom House, Calcutta-1.
5. THE SECRETARY, Calcutta Custom Employees Association, Custom House, Calcutta-1.
6. ASSISTANT COLLECTOR OF CUSTOM, Personnel and Establishment, Calcutta Custom House, Calcutta.

.....Respondents.

For the petitioner : Mr.P.Goswami, counsel.

For the respondents: Mr.B.K.Chatterjee, coun
sel.

Heard on: 26.8.98.

O R D E R

D.Purkayastha, JM

The applicant, Benoy Krishna Roy, being retired voluntarily from service on medical ground, claims benefit of retiral dues which has not been paid to the applicant though he retired from the service w.e.f. 3.4.92. The case of the applicant in short is that he retired voluntarily on medical ground and that has been accepted by the authority by their order dated 7th April, 1992- Annexure-A to the petition but the

respondents have not granted all retirement benefits to the applicant which are consequential to the voluntary retirement. It is stated that the respondents be directed to pay the gratuity and commutation of pension to the applicant.

Respondents filed written statement where it is stated that they could not settle the pension of the applicant making for/payment due to the claim by the third party claiming to be wife of the applicant. It is stated that the applicant has been granted 100% provisional pension but gratuity and commuted value of pension could not be granted due to the claims of the third party Srimati Namita Roy, claiming to be wife of the applicant. So, the application is devoid of merit and is liable to be dismissed.

Mrs. S. Bhuiyan, 1d. advocate, appears on behalf of the alleged wife of the applicant and submits that she is a poor lady and she filed one case before the CJM- Criminal Court, claiming maintenance under section 125 of the Cr.P.C. at Barasat which is still pending. But, the 1d. advocate on behalf of the petitioner, produced a photo copy of the judgement of the Hon'ble High Court, Calcutta passed in Criminal Revision no. 980 of 1985 filed by Namita Roy against the applicant. From the judgement, it is found that Hon'ble Court rejected the claim of the said Namita Roy to be wife of the applicant Shri Benoy Krishna Roy holding that "On the basis of the certificate only 1d. Magistrate was not at all justified in holding that the parties were legally married under the Special Marriage Act because the certificate does not show that the said marriage was solemnised under the Special Marriage Act when the evidence of the present opposite party clearly disapproves any marriage solemnised between the parties either under the Hindu Law or any other valid law on 4.11.73, which is the date stated to be the date of marriage, then it cannot be

held that the Certificate of Marriage under section 16 of the Special Marriage Act cannot be the valid evidence of any marriage between the parties. ~~and~~ Ld. Magistrate was, therefore, not justified in holding that the marriage was solemnised between the parties. His findings in respect of this by the Ld. Magistrate being clearly illegal, the order cannot be sustained and it is set aside. Accordingly, revision is allowed." After rejection of the said Revisional Application being no. 980 of 1985, the applicant filed another case before the Ld. Court of Munsiff Barasat bearing no. TA 68 of 1997 and it is pending before the Ld. Magistrate for adjudication.

In view of the aforesaid circumstances, I find that there should not be any impediment on the part of the respondent authorities to grant benefits of pension, gratuity, ^{or} ~~or~~ ^{to applicant or} commutation of pension pursuant to the voluntary retirement accepted by the authority by letter dated 7th April, 1992. Accordingly, I direct the respondents to make all payments of the settlement dues as much as gratuity, commuted value of pension etc. to the applicant Benoy Krishna Roy within 3 months from the date of communication of this order.

Ld. advocate prays for liberty to file a separate application for compassionate appointment of the applicant's son Prabir Roy on the ground of voluntary retirement. It is found that the applicant retired in the year of 1992 and it is too late to grant such liberty to the applicant for appointment on compassionate ground in favour of his son. Therefore, the said prayer is rejected.

The application is accordingly disposed of. No order as to costs.


(D. Purkayasha)
Member(J)