

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

ORIGINAL APPLICATION NO. 104/1997

PRESENT: MR. MUKESH KUMAR GUPTA, MEMBER (J).

MR. M.K. MISHRA, MEMBER (A)

JITENDRA NATH BALA & ANOTHER

Vs.

1. Union of India service through
Secretary, Ministry of Communication
Dept. of Telecommunication
Govt. of India, New Delhi.
2. Chief General Manager
Calcutta Telephones
Telephone Bhavan, Calcutta.
3. Assistant General Manager (Staff)
Calcutta Telephones
8, Bentick St. Calcutta.
4. Sr. Welfare Officer
Calcutta Telephones
Telephone Bhavan, Calcutta.
5. Assistant Traffic Superintendet (A)
Central Trunk Exchange
Calcutta Telephone Bhavan
Calcutta.

For the Applicant : None

For the Respondents : Mr. B.K. Chatterjee

Heard On: 23.11.2004 : Date of Order: 04.01 2005

O R D E R

SHRI MUKESH KUMAR GUPTA, MEMBER (J)

Jitendra Nath Bala and Sekhar Ranjan Bala
claiming themselves to be the Husband and Son
respectively of late Smt. Suniti Bala later known as
Smt. Suniti Prova Bala (Nee Mondal), in this O.A seek
direction to respondents to sanction all kinds of
admissible death-cum-retiral benefits with interest at
admissible rate under the provisions of CCS (Pension)

Rules, 1972 as well as seeking direction to respondents to pay the said retiral benefits including other benefits to those who have been nominated by late Smt. Suniti Prova Bala (Nee Mondal). *

2. Admitted facts of the case are that: Jitendra Nath Bala married Smt. Suniti Prova Bala (Nee Mondal) some time in the year 1953 as per Hindu Rites and out of their wedlock 2 sons, namely, Sekhar Ranjan Bala and Saibal Ranjan Bala were born in the year 1958 and 1964 respectively. She joined the Office of Chief General Manager, Department of Telecommunication with effect from 14.12.1964 as Telephone Operator and died on 16th May, 1995. Jitendra Nath Bala (hereinafter referred as applicant no.1) made a request to the concerned respondents to sanction amount as admissible to him vide representation dated 2nd June, 1995 followed by various reminders. The grievance of the applicants is that the Assistant Traffic Superintendent (A) who was required to verify the identity of applicant no.1 as being the husband of late Smt. Suniti Prova Bala (Nee Mondal) refused to carry out the said verification on the ground that as per representation submitted by her changing her name from Suniti Bala to Suniti Prova Mondal as well as declaring that she had severed her relation with applicant no.1, the latter was not entitled to family pension as well as other retiral benefits.

3. According to applicants, the deceased Government servant had filed a petition under the Hindu Marriage Act for dissolution of the marriage in the Court of 9th Addl. District Judge, Alipore, which was registered as Mat. Suit No. 23 of 1976 and which was not pursued by her on the persuasion of applicant no. 1 and therefore, the same was dismissed for default vide order dated 16th July, 1976.

4. On the other hand, respondents stand in specific is that there had been discrepancy about the said Mat. suit. According to them from the copy of the Plaintiff available, Mat. suit number was 556 and in the absence of the complete details, i.e. the year of filing as well as the court before which the said suit was filed, proper verification could not be completed. It was further stated that Mat. suit No. 442 of 75 was filed in the Court of District, Alipore and the marriage between the applicant no. 1 and deceased Government servant was solemnised on 15.10.1956. It is the further contention of the respondents that Smt. Suniti Mondal in terms of affidavit sworn before Metropolitan Magistrate 18th Court, Calcutta, on 31st May, 1978 as well as submitted prescribed form changing her sur name duly signed on 12th January, 1987, changed her name from Smt. Suniti Bala to Suniti Mondal which was published in Calcutta Gazette dated 10th May, 1973 as well as Gazette of India dated 2nd July, 1983. According to respondents, for want of establishing the identity of

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applicant no.1, the verification by the competent authority was not completed. Further that the Mat. suit no.556 for divorce was "decreed" and therefore, there was no relationship of husband and wife between deceased Govt. employee and the applicant no.1. Such being the case, it was contended by the respondents that applicant no.1 is not entitled to any due of the deceased employee.

5. The applicants contested the said stand taken by the respondents and filed the rejoinder dated 9th June, 1996 and also pointed out that the Succession Certificate was issued by the District Delegate, Sealdah, 24, Praganas (South) in favour of applicant no.1 for a sum of Rs.37,287.30 being the amount deposited by the deceased Government servant with the Post Office, Agarpara, along with interest in Savings Bank Account No.340408.

6. We heard learned counsel for the respondents and perused the pleadings including the Service book of the deceased Government servant. On a pointed query by the Bench to the learned counsel for the respondents, there was no satisfactory reply as to how and why even applicant no.2, who is admittedly the son of deceased Government employee and so noticed in the said service book, was not paid the terminal benefits besides other dues.

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7. On perusal of the aforesaid original service records by the respondents, we find that the deceased Government servant had submitted a statement of family as on 16th February, 1967 wherein Jitender Nath Bala, Sekhar Ranjan Bala and Saibal Ranjan Bala were shown and declared as Husband, Son and Son respectively having their date of birth as 1929, 13th August, 1958 and 12th July, 1964 respectively. We also find that in the original nomination form submitted by the deceased Government employee dated 18th January, 1979 for the purpose of Central Government Employees Insurance Scheme, Sekhar Ranjan Bala and Saibal Ranjan Bala, sons were nominated to the extent of 50% share each. Similarly, we find another nomination form for the benefit of Central Government Insurance Scheme, 1980 dated 11th June, 1982 which reiterated the nomination of the afore noted sons to equal share. The said service record also disclosed that the deceased Government employee was entitled to leave encashment of 190 days in terms of respondents order dated 27th September, 1995.

8. Under the Hindu Succession Act, 1956, Son is a Class I legal heir as prescribed under the Schedule of the said Act. When such was the admitted fact that Shri Sekhar Ranjan Bala and Shri Saibal Ranjan Bala were declared by deceased Government servant as her sons, we are unable to comprehend as to how and for what purpose and reason the respondents did not take any step to

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release the amount and dues of deceased Government servant in their favour. Despite our quest to find out the allegation made by the respondents that a decree of divorce was passed and the Mat. suit was decreed, no documents in the form of a decree passed by the competent court of law was produced by the respondents. We are unable to subscribe to the view that the marriage between the deceased Government servant and applicant no.1 was dissolved by the competent court of law. On the other hand, we find that Annexure-I, which is the order appended, dated 16th July, 1976 in Mat.suit no.23/1976, Suniti Bala vs. Jitendra Nath Bala specifically noticed that: "the suit be dismissed for default with cost". The applicants have reiterated that there is no other order passed in the said proceedings except the aforesaid order and the respondents have failed to produce any order justifying their stand that the divorce suit was decreed in favour of the deceased Government servant.

9. The respondents contention that this Tribunal cannot adjudicate the relief prayed for in the present case in our considered opinion is untenable and liable to be rejected for the simple reason that the factum of Sekhar Ranjan Bala as well as Saibal Ranjan Bala being the son of deceased Government employee was duly recorded besides the name of applicant no.1 in the

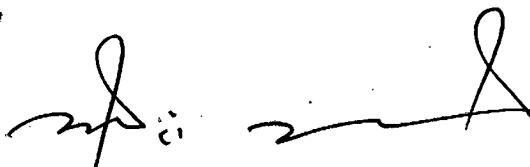
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family particulars which was submitted on 18th January, 1979 and the names of son were reiterated as late as in 1982 after filing of the Mat. suit. Being the son of the deceased Government servant, they are the Class-I legal heir of the deceased Government servant and no efforts have been made by the respondents to justify as to on what basis, the legal heir under the Hindu Succession Act could be denied such benefits.

10. In view of the discussions made herein above, we allow the present application and direct the respondents to release all terminal benefits including leave encashment, Provident Fund etc., which were due to Smt. Suniti Prova Mondal, earlier known as Suniti Bala in favour of Sekhar Ranjan Bala and Saibal Ranjan Bala being the son of the deceased Government employee. This exercise shall be completed within a period of 2 months from the date of receipt of a copy of this order. If such exercise is not completed within the aforesaid period, the respondents would be liable to pay interest on the sum^{Rs} so due after the expiry of the said two months at the rate of 6% till the date of actual payment. The O.A is accordingly disposed of. No costs.



(M.K. MISHRA)
MEMBER(A)



(MUKESH KUMAR GUPTA)
MEMBER(J)

mr.