

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 441 of 2005
with
Original Application No. 774 of 2005

Friday, this the 30th day of March, 2007

C O R A M :

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

1. O.A.No.441/05

C.Gomathy,
W/o.late P.A.Nadarajan,
Residing at Mundaplavilla Veedu,
Parasala P.O., Trivandrum District – 695 502.

...Applicant

(By Advocate Mr.Martin G Thottan)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office, Chennai – 3.
2. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum – 14.
3. Helen Savithri,
Bindu Vihar, Mangakkunnu,
Kurumandal, Paravur Village, Kollam.

...Respondents

(By Advocate Mr.P.Haridas [R1-2] & Mr.Ajayakumar G [R3])

2. O.A.No.774/05

Helen Savithry,
W/o.P.A.Natrajan,
Bindu Vihar, Mangakkunnu,
Kurumandal, Paravoor Village, Kollam.

...Applicant

(By Advocate Mr.Ajayakumar G)

Versus

1. The Southern Railway represented by General Manager,
Southern Railway, Madras.
2. The Divisional Manager,
Southern Railway, Trivandrum.
3. The Senior Divisional Personnel Officer,
Southern Railway, Thycaud, Trivandrum.

4. The Senior Section Engineer,
Southern Railway, Trivandrum.

...Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

These applications having been heard on 22nd March 2007 the Tribunal on 30th March, 2007 delivered the following :-

ORDER

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

Original Applications No. 441/05 and 774/05 relate to one and the same issue, viz., grant of family pension in the wake of the demise of one Shri P.A. Nadarajan, retired Gangman and the applicants in the said OAs are rival claimants to the grant of family pension, claiming themselves as the wife of late Nadarajan. Hence, this common order is passed.

2. Brief facts relating to the OAs are as under:-

(a) P.A. Nadarajan joined the Railways in May, 1985 and superannuated in October 2000 while working as Gangman and thereafter, was in receipt of pension vide PPO No. 0605204439 dated 22-09-2000, issued by the Senior Divisional Accounts Officer, Southern Railway, Trivandrum. The said Nadarajan expired on 28-06-2001.

(b) Applicant in OA 441/05, Smt. C. Gomathy is presently employed as Track woman under Senior Section Engineer/P.Way, Southern Railway Nagarcoil. On the death of Shri Nadarajan, she had requested the respondents that she being the wife of Nadarajan, be paid the family pension, vide representation dated 17-12-2001 (Annexure A-1). However, her request was not acceded to and the applicant had preferred another Representation dated 09-10-2003 (Annexure A-2) stating that the applicant was living separately prior to the retirement of the said Nadarajan and consequently, the said Nadarajan had not reflected in the records the fact that the applicant is his wife. However, the marital relationship was not severed.. To substantiate her status as the spouse of Late P.A. Nadarajan, the applicant had furnished order of the Family Court, Trivandrum in M.C. No. 60 of 1993 whereby the Court had ordered payment of

maintenance to the applicant and her daughter and thus, renewed her request for grant and payment of family pension. According to the said applicant Gomathy, her marriage with Late Nadarajan was solemnized on 15-01-1980 and various documentary evidences exist to confirm that the applicant was married to the said Nadarajan. Thus, LIC policy dated 25-02-1985, Passport dated 20-06-1988, Electoral card dated 18-09-02 and Ration card dated 30-12-1992 indicated as such evidences to her marital relationship with the said late Nadarajan. Earlier, when the applicant had moved this Tribunal, vide OA No. 94/2005, the respondents were directed to dispose of her representation, vide order dated 14-02-2005. By order dated 15-04-2005, the respondents have rejected the claim inter alia on the ground that one Smt. Helen Savitri from Paravoor village claiming herself as the wife of Late P.A. Nadarajan has filed OA No. 531/2004 before the C.A.T. claiming family pension which was also disposed of with a direction to dispose of the representation. It was also mentioned in the communication that the applicant did not disclose the fact that she has been the spouse of Late Shri P.A. Nadarajan when she was appointed as Track Workman. It is this order dated 15-04-2005 that has been challenged in OA No. 441/05.

(c) In so far as OA No. 774/05, Smt. Helen Savitri, the applicant therein has stated that she was married to Late P.A. Nadarajan on 02-01-1959. Annexure A-1 certificate from the President of the village Paravoor refers. When she had filed OA 531/04, the same was disposed of by Annexure A-11 order dated 14-07-2004 with a direction to the respondents to dispose of the representation and the respondents have by order dated 19-11-2004 rejected her claim on the ground that her name has not been reflected in the service records of Late Nadarajan and that the succession certificate does not reflect her status as the wife of late Nadarajan. It has also been stated that the marriage certificate is seen to have been issued after 16 years of the alleged marriage.

3. Pleadings were complete and the cases were taken up together. Counsel for the applicant in OA No. 441/05 argued that the marriage certificate issued by the President of a Village cannot be taken as authentic. As regards succession certificate, according to the counsel, the same could at best be used for any

dues payable to Late Nadarajan whereas the claim is one of family pension, payable only to the wife of Late Nadarajan. As such, the succession certificate is of least assistance to the applicant in the other OA. It has further been submitted that the so called marriage certificate produced by the applicant in the other OA can hardly be taken as an authentic certificate as the same had been issued by the President of the village and that too after years of marriage. Thus according to the counsel the applicant in the other OA cannot derive any benefit. As regards entitlement to family pension in respect of the applicant in OA 441/05, reliance has been placed to the Court order where maintenance had been ordered. However, in my considered view this too would be insufficient. The documents furnished by the parties do not meet the requirements for ascertaining the rightful claimant. For example, in the succession certificate furnished by the applicant in OA 774/05 the opposite party shown is late Nadarajan and not any other claimant. Again, the succession certificate does not specify that Helan Savithri is a legally wedded wife of late PA Nadarajan. Further, the counsel for the applicant in OA 441/05 is fully right in his argument that succession certificate could be utilised for succeeding to the properties in the nature of debt or securities but not a substitute to a decree of declaration as to the legal relationship of husband and wife. In so far as documents furnished by the applicant in OA 441/05, they are also wanting as such documents do not contain any certificate of marriage or a declaration from the Court that the applicant is a legally wedded wife of late OA Nadarajan. Of course, the decree of maintenance may go to some extent to prove as to the legal relationship but here again what may puzzle one is that the said order was passed ex-parte. Admittedly the deceased had not provided any details relating to his marital status, much less details of any of the two claimants. Thus it is for the administration to arrive at a just conclusion as to who is the legally wedded wife. The administration should therefore conduct necessary inquiry in this regard without waiting for a court order from a competent court of law.

The Apex Court in the case of *Rameshwari Devi v. State of Bihar*, (2000) 2 SCC 431, :

In the present case, we are concerned only with the question as to who is entitled to the family pension and death-cum-retirement gratuity on the death of Narain Lal. When there are two claimants to the pensionary benefits of a deceased employee and there is no nomination wherever required the State Government has to hold an inquiry as to the rightful claimant. Disbursement of pension cannot wait till a civil court pronounces upon the respective rights of the parties. That would certainly be a long-drawn affair. The doors of civil courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. Of course, inquiry conducted by the State Government cannot be a sham affair and it could also not be arbitrary. The decision has to be taken in a bona fide, reasonable and rational manner.

4. In view of the above both the OAs are disposed of with direction to the respondents to undertake the exercise of conducting a full fledged inquiry at the level of a Group A officer in order to ascertain as to who is the rightful claimant to the grant of family pension in respect of late Nadarajan and take further action for grant of such family pension to the right claimant. It is made clear that the officer conducting the inquiry may take his independent decision without being influenced by any of the observation made in this order or any inference that could be drawn from such observation.

5. As family pension cannot be withheld for a long time, it is directed that the exercise as directed above be completed within a period of four months from the date of communication of this order. Needless to mention that subject to reasonable grounds for seeking extension of time for compliance of this order a liberal view will be taken by the Tribunal provided application for the same is filed before the expiry of the time scheduled. No costs.

(Dated, the 30th March, 2007)



(DR.K.B.S.RAJAN)
JUDICIAL MEMBER