

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. NO. 468 OF 2013

Friday, this the 21<sup>st</sup> day of February, 2014

CORAM:

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

V.Gangadharan  
(Retired Goods Guard  
Southern Railway, Erode)  
Residing at Vattathodi House, Paruthipra  
Post Shoranur, Palakkad District – 679 141 ... Applicant

(By Advocate Mr.TCG Swamy)

versus

1. Union of India represented by the  
General manager  
Southern Railway, Headquarters Office  
Park Town PO, Chennai – 600 003
2. The Divisional Personnel Officer  
Southern Railway, Divisional Office  
Salem – 5
3. The Divisional Finance Manager  
Southern Railway, Divisional Office  
Salem – 5 ... Respondents

(By Advocate Mr.P.Haridas)

The application having been heard on 21.02.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Applicant is a retired Railway employee who superannuated on May 31, 2012 while working as Goods Guard (Traffic). According to the applicant, he had married Smt.K.Sathyabhamma, the elder sister of his first wife late Sreedevi on December 31, 2011 after her death on August 21, 2010. The applicant had thereafter submitted Annexure A-3 application before Respondent No.2 with a request to change the legal nominee in his

service records. The death certificate of his first wife Sreedevi and the marriage certificate evidencing his marriage with Sathyabhama were also produced along with the application.

2. In response to the above application, the Respondents have issued Annexure A-4 communication seeking several clarifications as regards the status of the children in his first marriage to Sreedevi, Marriage Certificate in respect of his marriage to Sathyabhama, present status of the first husband of Sathyabhama, death certificate of the first husband of Sathyabhama etc. It is on record that applicant had submitted Annexure A-5 reply in response to the above queries and produced the available documents. However, no further action was taken by the respondents in the matter and it is therefore the applicant has preferred this Original Application, after approaching the Pension Adalat, seeking the following reliefs:

(i) *"Declare that the non-feasance on the part of respondents to include the name of K.Sathyabhama as the applicant's wife, as a family pension beneficiary and for all other purposes like post retirement passes, medical treatment etc. is arbitrary, discriminatory, contrary to law and unconstitutional;*

(ii) *Direct the respondents to include the name of K.Sathyabhama as the applicant's wife, for all benefits, including as a family pension beneficiary, for post retirement passes, medical treatment etc. and direct further to grant all consequential benefits arising therefrom within a time frame, as may be found just and proper by this Hon'ble Tribunal."*

3. In the written statement the primary contention raised by the respondents is that the applicant cannot be granted the reliefs sought for since he has failed to produce the death certificate of the first husband of Sathyabhama. The specific case of the applicant is that the first husband of

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Sathyabhama had passed away on February 07, 1983 and the relatives of Smt.Sathyabhama had unwittingly failed to register his death. But, according to the respondents the failure of Sathyabhama and her relatives to register the death of her husband is in violation of the statutory provisions contained in the Registration of Births and Deaths Act, 1969. It is also pointed out that going by the provisions contained in Rule 21 of Railway Servants (Conduct) Rules, 1966 no Railway servant shall enter into or contract a marriage with a person having spouse living. Since the applicant had failed to produce the death certificate of the first husband of his second wife, the applicant would not be entitled to get the name of his second wife entered as his nominee for pension in his service records.

4. Having carefully perused the contentions raised by the respondents in the written statement and having heard learned counsel for the applicant, I have no hesitation to hold that the stand taken by the respondents is wholly untenable. It is pertinent to note that the applicant has produced the certificate in respect of his marriage with Sathyabhama. It is not in dispute that the applicant's first wife Sreedevi passed away on August 21, 2010. and he married Sathyabhama the elder sister of his former wife on December 31, 2011. Therefore evidently at the time of his marriage with Sathyabhama, the applicant was a widower and there was no legal impediment in this matrimonial relationship. The only reason stated by the respondents to refuse to enter the name of Sathyabhama in the service records is that the applicant has not produced the death certificate of the first husband of Sathyabhama. The explanation offered by the applicant is that the relatives of Sathyabhama had failed to register the death of her husband in 1983 due to ignorance or inadvertence. In my view, non production of the

Death Certificate of the first husband of Sathyabhama cannot be taken as a ground to refuse to recognize the marriage of the applicant with Sathyabhama and thereby allow him to get her name entered in his service records.

5.. Therefore, the Original Application is disposed of with a direction to the respondents to process the application submitted by the applicant to include the name of his present wife Smt. K.Sathyabhama in his service records for the purpose of grant of Family Pension, Medical treatment etc. ignoring the failure of the applicant to produce the death certificate of the first husband of his wife Smt.Sathyabhama. Respondents shall pass appropriate orders in the matter, if the application submitted by the applicant is in order in all other respects. If there are any other defects, applicant shall be afforded sufficient opportunity to cure them. Appropriate orders shall be passed on the application within two months from the date of receipt of a copy of this order.

6. Original Application is disposed of in the above terms. No costs.

Dated, the 21st February, 2014.

  
JUSTICE A.K.BASHEER  
JUDICIAL MEMBER

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