

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 573/2012

Friday, this the 2nd day of November, 2012.

CORAM

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

N.Pushpam, W/o late S Selvaraj,
(Ex-Sr.Trackman, O/o the SE/P.Way/
SR/Mavelikkara),
Residing at Kizhakkekara Puthen Veedu,
Odavalli, Vellachipara Post,
Panichamodu(via) Kuzhithura Taluk,
Kanyakumari District.

- Applicant

(By Advocate Mr TC Govindaswamy)

v.

1. Union of India represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town.P.O.
Chennai-3.

2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Divisional Office,
Trivandrum-14.

- Respondents

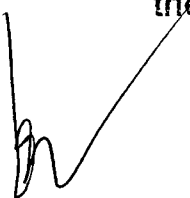
(By Advocate Mr Thomas Mathew Nellimoottil)

This application having been finally heard on 30.10.2012, the Tribunal on 02.11.2012 delivered the following:

ORDER

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

One S. Selvaraj, working as Senior Trackman at Chengannur, under the second respondent, died on 23rd of August 2008. Funeral expenses to



the tune of Rs.8000/- were stated to have been paid to the applicant in this OA. However, no further action for arrangement of other benefits had been taken by the respondents. OA No. 11 of 2009 had been filed by the applicant which was disposed of vide order dated 08-01-2009, with a direction to the respondents to consider and dispose of the pending representation filed by the applicant. It was thereafter, that the respondents have informed the applicant about the existence of a rival claimant by name K. Lalitha and the applicant has filed her reply, vide Annexure A-3 in which she had informed that her marriage with Selvaraj took place on 13-06-1974 and there is no reason why the authorities should wait just because of some false claimant. Annexure A-3 refers. The said Lalitha has moved the Civil Court in OP No. 464 of 2009 impleading the applicant herein as one of the respondents in addition to impleading the Railway authorities and the said petition came to be dismissed for default vide Annexure A-4 judgement dated 18 June 2011. It is the case of the applicant that with the dismissal order which goes against the said Lalitha, there should be no impediment to disburse the dues payable to the applicant. Annexure A-5 refers. Since there has been no reply, the applicant has moved this application seeking the following reliefs: –

- (i) Declare that the non-feasance on the part of the 2nd respondent to issue the necessary family pension papers to the applicant and to arrange settlement of the death benefits of her late husband S Selvaraj is arbitrary, discriminatory, contrary to law and hence, unconstitutional.
- (ii) Direct the respondents to issue the necessary family pension and other requisite papers to the applicant and arrange to settle

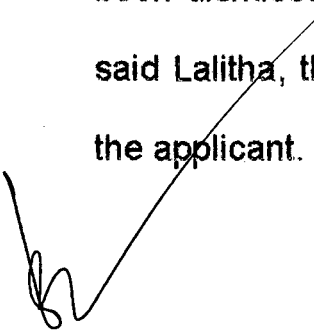


her family pension and other death benefits of her late husband S Selvaraj forthwith and, at any case, within a time limit as may be found just and proper by this Hon'ble Tribunal.

(iii) Direct the respondents to pay interest on arrears of family pension and other death benefits with effect from 1.12.2008 till the date of final settlement of the dues, at the rate as may be found just and proper by this Hon'ble Tribunal.

2. Respondents have contested the OA. Technical objection as to non-joinder of necessary party has also been raised. As regards payment of funeral expenses to the applicant, the same has been admitted by the respondents. However, according to them since the decision of the Family Court relating to the status/relationship of the said Lalitha vis-a-vis the deceased employee is not known to the respondents, the applicant is not paid any dues. According to them, if the other claimants emerges with a clear order in her favour, the respondent railways would be put to irreparable damages.

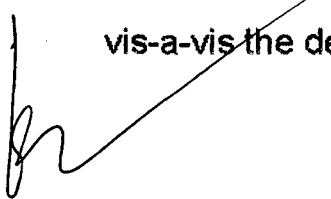
3. Counsel for the applicant submitted that the records would reveal that the applicant is the legally wedded wife of the said deceased Selvaraj and when the records do not contain any entry relating to the relationship of Lalitha with the late Selvaraj, there should be no objection in disbursing the amount due to the applicant. In any event, OP No. 464 of 2009 having been dismissed on default, and there being no further action taken by the said Lalitha, there should not be any bar in disbursing the amount due to the applicant.



4. Counsel for the respondents expressed his apprehension that in case the said Lalitha comes up with an order of the Family Court in her favour, it would result in an irreparable damage to the Railways.

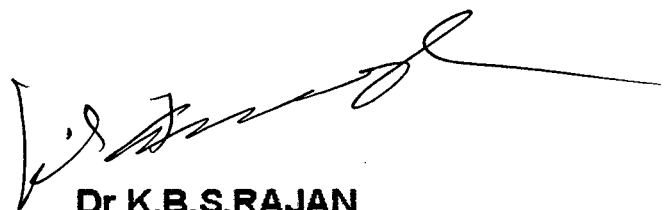
5. Arguments were heard and documents perused. Law is clear that the amount becoming due on account of the demise of a serving employee should go to the legal heir as per the nominations and description of family members in the service records. If the applicant had been married to late Selvaraj in 1974 as contended, in all expectation, the same would have been reflected in the service records. The respondents have not denied that there is any entry in this regard. In any event, the records on scrutiny would reveal the actual fact which could be taken into account.

6. As regards the rival claim, as on date, since the OP stands dismissed for default as early as in 2009 and there appears no further action taken by the said Lalitha for revival and restoration of the Original Petition, the respondents can well go ahead for disbursement of the dues to the legal heirs as per the service records. Since they apprehend that the said Lalitha could stage a come back, it would be advisable that the legal heir as per the records held in the office of the Respondents, be asked to furnish an indemnity bond for making good any loss that the Railways may suffer in case if any payment is to be made to the said Lalitha on the basis of any decision by the Family Court as to her status vis-a-vis the deceased Selvaraj.



7. In view of the above, the **OA is disposed of** with a direction to the respondents to verify the records and if the same contains the name of the applicant as the legally wedded wife of the said late Selvaraj and if there is no other rival claimant as per the records, the amount could well be disbursed to the legal heir as per the records. While so doing, the respondents could well demand an indemnity bond so that any liability that may be fastened upon the Railways due to the alleged rival claim of Lalitha could well be borne by the said legal heir. Respondents are directed to take suitable action in this regard. The action taken should be brought to the notice of the first respondent by the authorities implementing this order.

8. Time calendared is six months from the date of communication of this order. No costs.



Dr K.B.S.RAJAN
JUDICIAL MEMBER

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