

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 181 of 2009

Friday, this the 4th day of December, 2009

CORAM:

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

1. Smt. Laisamma P.K.
D/o. (Late) Kuriako,
Kathukuzhiyil House,
Meenpara P.O.,
Puthencruz, Ernakulam District.
2. Abhay M. Chandran, Aged 12 Years (Minor).
S/o.(Late) M.K. Chandran,
(Rep. By Mother & Natural Guardian) Ist Applicant,
Kathukuzhiyil House,
Meenpara P.O.,
Puthencruz, Ernakulam District. ... Applicants.

(By Advocate Mr. M.P. Krishnan Nair)

v e r s u s

1. Principal General Manager,
Bharat Sanchar Nigam Limited,
BSNL Bhavan, Kalathiparambu Road,
ERNAKULAM : 682 016
2. Communication Accounts Officer,
DOT Cell, BSNL, Thiruvananthapuram.
3. Smt. Jayalakshmi, W/o. (Late) M.K. Chandran,
Maniyanpurath Kizhakkekara House,
Mannarkad P.O., Palakkad.
4. Union of India,
Rep.by the Secretary,
Ministry of Telecommunication,
NEW DELHI ... Respondents.

[By Advocate Mr. N. Nagresh (R1, 2 & 4)]

The Original Application having been heard on 04.12.09, this Tribunal on the same day delivered the following :

O R D E R

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

The lone issue involved in this case is whether production of succession certificate is a pre requisite for the drawal of the admissible dues payable to the

guardian of the second applicant who is a minor.

2. Brief facts: The first applicant is the wife of late M.K. Chandran who died while functioning in the BSNL in a Motor accident on 18-04-2006. Applicant No. 2 is the son born to the 1st applicant and the said late M.K. Chandran. The first applicant in fact earlier married one Shri Babu and had two children who are married. It was after the demise of the said Babu that the applicant is stated to have married late M.K. Chandran. The said Chandran had married the 3rd respondent in 1996 and they have one daughter out of the wedlock. In the nomination filed by the said M.K. Chandran, the benefits accrued in the wake of demise while in service would go in equal share to his son (i.e. the second applicant) and the daughter of the third respondent and in the event of the two nominees pre-deceasing, the amount had to go to the 3rd respondent.

3. The respondents had decided to make available the terminal benefits and other dues payable to the nominees as per the nomination form; However, the respondents communicated to the applicant No. 1 vide Annexure A-4, A-5 and A-6 that the dues would be payable only on production of succession certificate.. The applicant has filed this OA challenging the orders at A-4 to A-6 stating that there is no need to demand such a succession certificate.

4. Respondents have filed their counter and resisted the O.A. According to them, production of succession certificate is an audit requirement, vide Annexure R-1(c) dated 17-08-2007.

5. Counsel for the applicant argued that the first applicant is the mother of the second applicant and the amount has to be paid to the second applicant. The said first applicant being the natural mother and guardian of the second applicant, there is absolutely no need to insist upon succession certificate. He has also submitted that in case the respondents desired, the entire amount would be kept in the bank and amount may be permitted to be withdrawn by the

first applicant No. 1 for the purpose of maintenance and education of the second applicant.

6. Counsel for the respondents argued that production of succession certificate is an audit requirement.

7. Though third respondent has been served, there has been no appearance on her behalf. Hence, she is made ex-parte.

8. The case has been considered. The second applicant is a minor and hence, dues payable to him should be paid to the guardian. It is not the case of the respondents that there has been a rival claimant as a guardian of second applicant. They have not disputed the fact that the applicant No. 1 is the mother of Applicant No. 2. The lone reason given was that the audit authorities have asked for the succession certificate. In fact no rules have been cited in this regard.

9. Imposing this condition would mean undue delay as it is not that easy to obtain succession certificate from a competent court. Even obtaining copy of such certificate is dilatory, as held by the Apex Court in the case of **Charles K. Skaria v. C. Mathew (Dr)**, (1980) 2 SCC 752, wherein the Apex Court has held as under:-

"In actual life, we know how exasperatingly dilatory it is to get copies of degrees, decrees and deeds, not to speak of other authenticated documents like mark-lists from universities, why, even bail orders from courts and Government Orders from public offices."

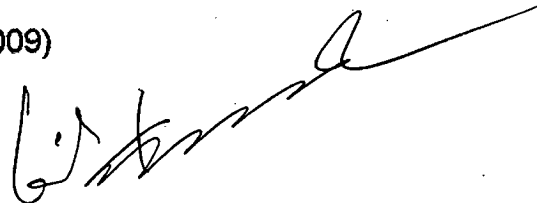
10. In fact, necessity of succession certificate is insisted only in respect of "debts" or "securities" to which a deceased was entitled as held by the Apex Court in the case of **Rukhsana v. Nazrunnisa**, (2000) 9 SCC 240. In that case, the amount was compensation sanctioned which has to be paid to the legal heir. As such, there is no necessity to produce succession certificate for an amount of

terminal benefits, already sanctioned . At best respondents could get certain indemnity bond signed by the applicant No. 1 and an undertaking that the amount received as a guardian of second applicant shall be utilized only for the purpose of the welfare of the said individual, viz., for his maintenance and for child education. This requirement too is only when there is a likelihood of there being any rival claimants. If there be any need to realise the amount from the first applicant, then the provisions of indemnity bond could always be invoked. Of course, the respondents may before disbursing the amount ensure by proper verification that the applicant No. 2 is living with applicant No. 1 and the latter is duly bringing up the applicant No. 2.

11. As such, this OA is disposed of with a direction to the respondents not to insist on the production of succession certificate for disbursement of the amount payable to the second applicant and the amount be paid to the first applicant, if need be, after getting necessary indemnity bond for a like amount. Again, if the respondents consider it desirable, the amount may be directed to be kept in a separate bank account in the name of the applicant No. 2 and Applicant No. 1 and the latter may be permitted to withdraw the amount for maintenance and schooling etc., of the second applicant. This is however, subject to the respondents' verifying the fact that the second applicant is under the care of the first applicant. Respondents are directed to take suitable action accordingly and subject to performance of the part as stated above by applicant No. 1, this order shall be complied with, within a period of three months from the date of communication of this order.

12. No costs.

(Dated, the 4th December, 2009)



(Dr. K B S RAJAN)
JUDICIAL MEMBER