

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.211/2008
Dated the 8th day of August, 2008.

CORAM :
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

V.G.Ushadevi
W/o.Late KP Nair,
House No.4/657, Santha Bhavan,
Palace Road, Kochi-2
... Applicant

By Advocate Mr.U.Balagangadharan

V/s.

- 1 Director General,
Archaeological Survey of India,
Ministry of Tourism and Culture,
11, Janpath, New Delhi
- 2 The Superintending Archaeologist,
Archaeological Survey of India,
Trissur Circle, Puratattva Bhavan,
Pullazhi, Thrissur, Kerala.
- 3 The Pay and Accounts Officer,
Archaeological Survey of India,
Hyderabad
- 4 Assistant Superintendent Archaeologist
for Museum, Archaeological Survey of India,
Mattancherry Palace Museum, Kochi

... Respondents

By Advocate Mrs.Aysha Youseff ACGSC

This application having been heard on 8th August, 2008, the Tribunal on the same day delivered the following.

(ORDER)

Hon'ble Mr.George Paracken, Judicial Member

The applicant is the second wife of the deceased Government servant Shri K.Prabhakaran Nair who passed away on 15.3.2006. He married his first wife Smt. Madhuri Devi on 9.2.1989 but the said marriage ended in divorce on 27.4.2002 with the Annexure A-2 judgment of Family Court, Thiruvananthapuram. In the first wedlock, late Shri Prabhakaran Nair had two sons aged 17 years old and 15 years old. As per the Annexure A-7 Legal Heir Certificate issued by the Tehsildar, Kochi, Shri Prabhakaran Nair married the applicant on 18.12.2002. After his demise, the applicant submitted the Annexure A-6 application dated 2.7.2007 to grant her family pension, gratuity, provident fund and other terminal benefits. She had also produced the Legal Heir Certificate, Death Certificate of late Shri Prabhakaran Nair and the Annexure A-5 Will. According to the said Will, all service benefits including compassionate appointment shall be devolved upon the applicant. She is aggrieved that despite the lapse of over two years from the death of her husband, the respondents have not paid her the family pension and other terminal benefits due to her under the rules. She has submitted that the life time salary of her late husband Shri K.Prabhakaran Nair has also not been paid to her so far.

2 Respondents in their reply has submitted that immediately after the death of Shri Prabhakaran Nair, an amount of Rs.8000/- was



disbursed to the applicant as immediate relief (Annexure R-2). Thereafter, she was asked to produce the legal heir certificate from the Tehsildar and to submit pension papers duly filled up vide letter dated 18.7.2007 (Annexure R6) take necessary action with regard to settlement of pension, Gratuity, etc. She submitted the same only on 9.10.2007 through the Assistant Superintending Archaeologist (Museum), Kochi (Annexure R-7). Thereafter, the 2nd respondent sent all the necessary documents to the 3rd respondent vide Annexure R-8 letter dated 22.10.2007 but the 3rd respondent returned the same with the following observations vide their letter dated 18.1.2008:-

"(i) Late K.Prabhakaran Nair divorced his first wife Smt.Madhuri Devi, who have two children and married Smt.Usha Devi as per the marriage certificate dated 18.12.2002. As per Court's Divorce Order dated 27.4.2002, the two children of the 1st wife were in the custody of 1st wife but as per the Legal Heir dated 26.5.2007, they are living with 2nd wife. The details of guardian alongwith Guardianship Certificate of the children of 1st wife may be obtained and forward this office. Application from guardian for 50% Family Pension may also be obtained.

(ii) Please refer letter dated 2.3.2006 of Late K.Prabhakaran Nair regarding changing of Nomination in the name of Smt.V.G.Usha Devi, 2nd wife which is not valid. As per the nomination given in the prescribed proforma, the D.C.R.G is payable to his mother. Therefore, necessary application from his mother for DCRG is required for processing vide their letter No.PAO/ASI/HYD/2005-2006/1/635 dated 16.1.2008 (Annexure R9)."

3 Thereafter, the 2nd respondent vide Annexure R 10 letter dated 9.2.2008 requested Smt.B.Lalitha Kumari Amma, mother of the deceased Government servant to submit the DCRG form, Guardianship Certificate and application for 50% Family Pension. Smt.B.Lalitha Kumari Amma,



and Smt.Madhuri Devi have submitted the relevant documents on 1.3.2008 and 4.3.2008 respectively. In the pension form submitted by Smt.Madhuri Devi, the payment of pension was opted through Treasury whereas pension in respect of Central Government Employees are made through Public sector banks only. Again she was requested to intimate the name of the Bank, account number and branch, etc vide Annexure R-12 dated 14.3.2008. The requisite information was received from her vide Annexure R-13 letter dated 26.5.2008 opting for State Bank of Travancore, Virahinjam Branch. Subsequently, all the relevant documents regarding pension and other documents were sent to 3rd respondent namely, Pay and Accounts Officer, Archaeological Survey of India, Hyderabad vide letter dated 30.5.2008 (Annecure R-14). The 2nd respondent has also vide Annexure R-15 dated 4.6.2008 sought clarification from the 3rd respondent as to whom the payments of CGEGIS and GPF amount in respect of late Shri Prabhakaran Nair are to be made since the nomination in the prescribed proforma by late Shri K.P.Nair is in favour of his (1st wife) Smt.Madhuri Devi.

4 The respondents have, therefore, submitted that they have taken all efforts to pay the pensionary benefits of the applicant and there is no willful lapse or negligence on their part. Learned counsel for applicant submitted that he will be satisfied if the respondents would disburse the family pension and terminal benefits with arrears to applicant without any further delay.



5 I have heard Shri U.Balagangadharan for the applicant and Smt Aysha Youseff, ACGSC for the respondents. It is seen that the 2nd respondent has forwarded all the relevant papers to the 3rd respondent on 22.10.2007. The 3rd respondent kept those papers with him for nearly three months and raised certain objections. After removing those objections, the 2nd respondent again sent the papers to the 3rd respondent on 26.5.2008. It is unfortunate that the 3rd respondent could not settle the matter till now. I, therefore, direct the 2nd and 3rd respondent to ensure jointly that the applicant shall get the family pension with complete arrears and other terminal benefits due to her without any further delay but, in any case, within six weeks from the date of receipt of this order. In case of any further delay, the respondents shall pay interest at the rate of 12% per annum on the arrears of family pension and other terminal benefits payable to the applicant till they are paid. They shall also disburse the arrears of life time salary of late Shri K.Prabhakaran Nair w.e.f 1.1.2006 in accordance with the rules within the aforesaid period. The second respondent shall depute the Welfare Officer of his Department if there is one, or a responsible official to assist the applicant in this regard so that no further delay is caused in getting the pension and other terminal benefits. Accordingly, OA is allowed. There shall be no orders as to costs.



GEORGE PARACKEN
JUDICIAL MEMBER

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