

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No. 275/90  
XXXXXX

499-

DATE OF DECISION 6-11-90

PM Syamala

Applicant (s)

Mr TV Babu Cherukara

Advocate for the Applicant (s)

Versus

Union of India rep. by the Respondent (s)  
Secretary, Deptt. of Posts,  
New Delhi and 5 others.

Mr TPM Ibrahim Khan

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Shri NV Krishnan, AM

The applicant is the wife of late Shri P Balakrishnan Nair, Postman, Pallipad Post Office in Mavelikara Division. He expired on 6.3.88 and family pensionary benefits were given to his wife, the present applicant. However, subsequently, by order dated 5.1.90 (Annexure-I) the applicant has been informed by the Superintendent of Post Offices, Mavelikara (Respondent-5) that it has been found that the family pensionary benefits are also to be given to a son born to the second wife of the late Shri P Balakrishnan Nair. Therefore, the applicant was requested to re-pay the excess amount of family pension for the period from 6.3.88 to 30.4.89 amounting to Rs 3734.50 and the excess amount of gratuity of Rs 1120/-. The applicant has challenged this order on the ground that she is

unaware of any second wife of her husband or of a son born to the alleged second wife. She also avers that as a government employee, the applicant's husband could not have contracted a second marriage when the first wife was living.

2 When asked to explain how the impugned Annexure-I order came to be issued, the learned counsel appearing for the respondents stated that a representation dated 14.3.88 was made by one Smt T Valsalamma (Annex.R5(B)) stating that a marriage had taken place between her and Shri P Balakrishnan Nair, while working as Postman at Pallippad Post Office at Cherianad Sub Registry on 29.8.84. She also claimed that she has a child aged 2½ years from this wedlock. Referring to the family pension and gratuity given after the death of P Balakrishnan Nair, she claimed that amount for herself. It is stated by the learned counsel for the respondents that legal opinion of the Government Pleader/Public Prosecutor, Alleppey was taken on 5.4.88 (Annexure R-5(C)) and it is on the basis of this opinion that the proceedings were initiated.

3 We find from the last sentence of para 3 of the reply affidavit that the respondents admit that Smt Valsalamma has not produced any legal evidence to substantiate her aforesaid claims. It is, therefore, surprising that in a case without any evidence, the respondents have chosen to issue the impugned Annexure-I

letter merely on the basis of the petition of a rival claimant and a legal opinion.

4 We also ascertained from the learned counsel for the respondents that, in their records, the only information available is that the applicant alone is the wife of the deceased government servant and that he had not given any intimation about having contracted a second marriage.

5 In the circumstances, we are of the view that the impugned Annexure-I order is without any jurisdiction and is quashed. Consequently, all other dues payable ~~be released~~ as a result of the death of ~~be released~~ Shri Balakrishnan Nair, to the applicant within a period of three months from the date of receipt of a copy of this order.

6 This application is disposed of accordingly and there will be no order as to costs.

  
6/11/90.

(N Dharmadan)  
Judicial Member

  
6/11/90.

(NV Krishnan)  
Administrative Member

6-11-1990