

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 40 of 2001

Friday, this the 2nd day of February, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. A. Vijayalakshmi,
W/o late K.B. Shashankan,
Kadungothenali Veedu,
Nedungattoor, Shornur, Palakkad.
2. Ragi,
Kadungothenali Veedu,
Nedungattoor, Shornur, Palakkad,
rep. by her guardian, A. Vijayalakshmi.
3. Shashankan,
Kadungothenali Veedu,
Nedungattoor, Shornur, Palakkad,
rep. by his guardian, A. Vijayalakshmi.Applicants

[By Advocate Mr. V.B. Hari Narayan]

Versus

1. Union of India, rep. by its Secretary,
Ministry of Railways, New Delhi.
2. The General Manager,
Southern Railways, Madras.
3. The Divisional Personnel Officer,
Southern Railways, Palakkad.Respondents

[By Advocate Mr. K.V. Sachidanandan (represented)]

The application having been heard on 2nd of February, 2001,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek to direct the respondents to disburse the benefits due to late Shashankan to applicants 2 and 3 with 18% interest and to declare that applicants 2 and 3 are entitled to get the benefits due to late Shashankan in the light of the dictum laid down by the Apex Court and the action

on respondents in denying the benefits due to late Shashankan to applicants 2 and 3 is arbitrary, illegal and without any authority.

2. Applicants say that they are the wife and children of late KB Shashankan who died on 25-9-1991 while in service under the 3rd respondent as Gangman. The 1st applicant along with her children and in-laws are the legal heirs of late KB Shashankan. Since applicants are the legal heirs of late KB Shashankan, they are entitled to get all the benefits due to them. In spite of repeated representations, instead of granting benefits to the applicants, respondents have arbitrarily given all the benefits to another lady. It is understood that she is now married and is having a family. Respondents have disbursed the benefits to a third person who is not competent to receive such benefits. The 1st applicant caused to issue a lawyer notice to the 2nd respondent for the benefits due to her. No action is taken on that.

3. In paragraph-1 of the OA, it is stated that:

"The first applicant along with her children and in-laws are the legal heirs of late K.B. Shashankan."

The third relief sought is to declare that applicants 2 and 3 are entitled to get the benefits due to late Shashankan. From the third relief sought it will appear that applicants 2 and 3 are the sole legal heirs of deceased KB Shashankan. But, from paragraph-1 of the OA, it is not so.

3. In paragraph-2 of the OA, it is stated that applicants are the legal heirs of deceased Shashankan. It is directly in conflict with paragraph-1 of the OA.

4. Though it is stated that repeated representations were submitted by the 1st applicant, no copy of even one representation is produced.

5. In the OA it is stated thus:

"But, surprisingly, instead of granting the benefits to the applicants, the respondents have arbitrarily given all the benefits to another lady."

Surprisingly, that "another lady"s name is kept anonymous by the applicants.

6. Reliance is placed by the applicants in the ruling in Rameshwari Devi Vs. State of Bihar and Others [JT 2000 (1) SC 328]. There it has been held thus:

"Doors of civil courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. "

7. It is the admitted case here that the pensionary benefits on the death of Shashankan has been paid by the respondents to "another lady". The dispute herein is, who are the legal heirs of KB Shashankan. That is not a matter for the Tribunal to decide. It is for Civil Court to decide.

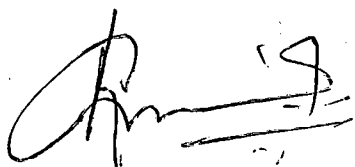
8. It is the admitted case that KB Shashankan died on 25-9-1991. This OA has been filed only on 9-1-2001. The learned counsel appearing for the applicants submitted that the cause of action arose when the benefits were disbursed to "another lady". When was it is conspicuously absent in the OA.

9. The learned counsel for applicants drew our attention to A1. The opening sentence in A1 is that the 1st applicant is the wife of deceased KB Shashankan. In the OA, reliefs are claimed only by applicants 2 and 3 and not by the 1st applicant.

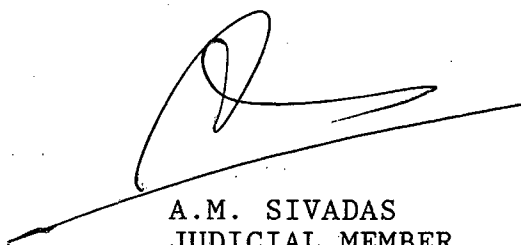
10. We do not find any ground to admit the Original Application.

11. Accordingly, the Original Application is dismissed. No costs.

Friday, this the 2nd day of February, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of the Lawyer Notice dated 7-3-2000 issued to the 2nd respondent.