

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.400/09

Thursday this the 18th day of February 2010

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

P.Vasantha,
Manikanta Mandiram,
Vilavoorkal, Malayankil P.O.

...Applicant

(By Advocate Mr.S.M.Prem)

V e r s u s

1. Southern Railway
represented by its General Manager,
Southern Railway, Chennai.
2. The Chief Accounts Officer,
Office of the Financial Advisor
& Chief Accounts Officer, Chennai – 3.
3. S.Kamamma,
Manalivila Puthen Veedu,
Vandithadom, Kunnathukal, Neyyattinkara.
4. Bindhu,
Manalivila Puthen Veedu,
Vandithadom, Kunnathukal, Neyyattinkara.
5. Padmakumar @ Binu,
Manalivila Puthen Veedu,
Vandithadom, Kunnathukal, Neyyattinkara.

6. Senior Divisional Finance Manager,
Southern Railway, Bangalore.

...Respondents

(By Advocate Mr.K.M.Anthru [R1,2&6] & Ms.Kottamam.K.Jayasree [R3&4])

This application having been heard on 18th February 2010 the
Tribunal on the same day delivered the following :-

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ORDER

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The applicant in this OA is seeking a direction to the 1st and 2nd respondents to disburse the benefits due to her being the legal heir of the deceased employee.

2. The brief facts of the case are that one Shri.Sreedharan was an employee of the Railways. He married S.Kamamma, the 3rd respondent, in the year 1962. But the said marriage was dissolved in the year 1992. During the pendency of the divorce proceedings before the Family Court, Shri.Sreedharan married the applicant in the year 1984 and they were living as husband and wife. In the said wedlock two children were born. According to the applicant, Shri.Sreedharan took voluntary retirement from service on 16.12.1987. However, he went missing from 1998 onwards. Thereafter, the applicant got a declaration from the Family Court vide its order dated 28.1.2004 in O.P.No.246/03 that she is the legally wedded wife of Shri.Sreedharan and she is entitled to get all the benefits accrued to him. Strangely, the applicant has again approached the same Family Court in another O.P.No.881/04. This time she has impleaded Southern Railways as respondents through its General Manager and Chief Accounts Officer. The Family Court, vide its order dated 11.4.2007, held that the marriage between Shri.Sreedharan and his first wife, Kamamma, was subsisting at the time of the marriage of the applicant with Shri.Sreedharan and, therefore, the marriage of the applicant with Shri.Sreedharan was not a valid one in terms of Section 5(1) of the Hindu Marriage Act. The applicant carried the aforesaid order of the Family Court before the Hon'ble

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.3.

High Court of Kerala in MAT Appeal No.455/07 and vide its judgment dated 2.7.2008 the High Court has dismissed the said appeal holding that the only option open to the applicant herein is to approach the Civil Court after impleading the said Kamalamma.

3. When the counsel for the respondents pointed out that the applicant has filed the present OA without complying with the directions contained in the aforesaid judgment of the High Court, the counsel for the applicant has expressed her willingness to withdraw this OA and sought the liberty to file a fresh OA with her children as also parties.

4. We considered the aforesaid submission of the counsel for the applicant and find that it is quiet reasonable. Accordingly, this OA is dismissed as withdrawn with liberty to the applicant to file a fresh joint OA along with her children. There shall be no order as to costs.

(Dated this the 18th day of February 2010)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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