

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.248/2005
This the 5th day of September 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Smt. Gulba Devi aged about 36 years widow of Late Vijay Bahadur R/o Village-Ghurahupur Maliur, Tahsil-Akbarpur, Distt.-Ambedkar Nagar.

...Applicant.

By Advocate: Shri Umesh Srivastava for Shri Alok Singh.

Versus.

1. Union of India, through its Defence Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. General Manager, Field Gun Factory, Kalpi Road, Kanpur.
3. Dy. General Manager (Administration) Field Gun Factory, Kalpi Road, Kanpur.
4. Smt. Raj Kumari Yadav aged about 40 years W/o Late Vijai Bahadur Yadav R/o H. No. Sector-1730, Vishwa Bank Colony, Varra, Kanpur.

...Respondents.

By Advocate: Shri Rajendra Singh for Shri Raghvindra Misra.

Shri D. Awasthi for Private Respondent No.4.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed OA with a prayer to issue direction to the Respondent No. 2 and 3 for release of entire post retrieval benefits to the applicant alongwith interest thereon.

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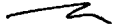
2. The Respondent No.2 and 3 have filed Counter Affidavit, denying the claim of the applicant. Respondent No.4, who has been impleaded as Private respondent also denied the claim of the applicant for grant of retrial benefits of the deceased Late Vijay Bahadur.

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and also reiterated his pleas in the OA.

4. Heard both the parties.

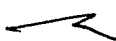
5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that Late Vijay Bahadur, while working on Class-IV post employee (T.No.18851 Store) in field Gun Factory), Kalpi Road, Kanpur under the respondents died on 03.03.2003. The deceased employee immediately after he joined in the service, got recorded the name of his mother Smt. Shyam Devi as his nominee for getting G.P.F. benefits. But in the year 1987, he made request to the authorities for change of name of the applicant as nominee in the place of his mother on the ground that he married the applicant and accordingly, the authorities recorded the name of the applicant. In the year 1992-93, when he applied for LTC, he did not show the name of the applicant, but showed the name of Raj Kumari (Respondent No.4) as his wife, but the respondents did not sanction LTC due to change of name of his wife. Admittedly, the deceased employee died on 03.03.2003, while in service.



7. On 22.03.2003, the Respondent No.4 also informed the death of Late Vijay Bahadur to the respondent authorities, alongwith death certificate and subsequently on 22.05.2003, she also submitted another application claiming terminal benefits of the deceased employee. The respondent authorities informed such claim of the Respondent No.4 in respect of terminal benefits of the deceased to the applicant to her last known address but the same was returned undelivered which is annexed as Annexure-CR-1. Thereafter, when the authorities asked the Respondent No.4, to submit succession certificate she filed a Succession Case No.285/70/2003 before the Court of Civil Judge (Sr. Division), Kanpur Nagar and the same was decided on 21.03.2004 and the succession certificate was issued in favour of Respondent No.4 Smt. Rajkumari. Annexure-CR-3 is the copy of the succession certificate Dt. 23.03.2004. But the Respondent No.4 did not implead the applicant herein as party in the succession certificate (Ann.-CR-3) but only made Smt. Shyam Devi, mother of Late Vijay Bahadur as party.

8. Because of nomination of the applicant in the service records, when the authorities have referred the matter to the District Collector, Sultanpur for verification they intimated that Smt. Gulba Devi (Applicant) is alive and residing with her brothers and she was not divorced and not remarried and Annexure-CR-6 is the copy of the said report. Thereafter, the authorities asked to the Respondent No.4 to obtain fresh succession certificate impleading Smt. Gulba Devi (Applicant), as one of the party and also to produce documentary evidence of her marriage with Late Vijay



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Bahadur for claiming terminal benefits and the same was also informed to the applicant and also the succession certificate produced by Respondent No.4 for payment of terminal benefits and Annexure-CR-7 is the copy of the same. The Respondent No.4 also submitted an Agreement Dt. 16.11.1988 in respect of her marriage with Late Vijay Bahadur and the said agreement was registered on 04.08.1989 by the registry for solemnizing marriage with Late Vijay Bahadur. The official respondents have not passed any orders in respect of the terminal benefits of the deceased employee because of rival claims made by the applicant and Respondent No.4.

9. From the records, it is clear that there are rival claims from the applicant and also Respondent No.4 claiming that they are the wife of the deceased Late Vijay Bahadur and also made claims in respect of his terminal benefits. Further, the Respondent No.4 opted succession certificate from the competent Court stating that she is entitled for the terminal benefits of the deceased Vilay Bahadur. At the same time, as per the records maintained by the respondent authorities, the name of the applicant was shown as wife of the deceased employee when the Respondent No.4 did not array a party, while obtaining succession certificate (Ann.-CR-3). Under the above circumstances, when the respondent No.4 made claim for the terminal benefits of the deceased employee basing on succession certificate, issuing of any direction to the respondent authority allowing the claim of the applicant for release of terminal benefits of the deceased employee Late Vijay Bahadur is not at all sustainable. In view of rival claims of the parties, it is their duty to obtain succession certificate from the competent Court, enabling

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the respondent authority for release of terminal benefits of the deceased employee. Thus there are no merits in the claim of the applicant and as such the same is liable for dismissal.

In the result, OA is dismissed. No costs.


(M. KANTHAIYAH)
MEMBER (J)

05-09-08

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