

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUDHIANA BRANCH,
LUDHIANA.
C.A.N.S. 411/90 (2)

Shri. Kaushlya Gauniyal : : : : : Applicant

Vs.

1. The Union of India,
through the Secretary
to the Government of
India, Ministry of
Railways, Railway Deptt.,
Rail Station, New Delhi.
2. The Secretary,
Railway Board,
Railway Station,
New Delhi.
3. The Director General,
Research Designs
and Standard Organisation
Ministry of Railways,
Central Government of
India (Union of India),
Mansarovar, Lucknow. : : : : : Respondents.

Hon'ble Mr. S.N. Prasad, Judicial Member.

(By Hon'ble S.N. Prasad, J.M.)

1. The applicant has approached this Tribunal for
issuance of directions to the respondents No.1 to 3 or to
any one of them to fix the family pension of the deceased
Shri. Govind Gauniyal, who was Assistant in the office of
S.C.(R)'s Section of the Director General, Research,
Designs and Standard Organisation (RDSD, Manak Nagar,
Lucknow (respondent No.3.) and for payment of the same
to the applicant on behalf of the deceased's family.

2. Briefly stated the facts of this case, including
are that the applicant is the widow of late Shri Govind
Gauniyal (here-in-after referred to as the 'deceased'),
who at the time of his death was employed as 'Assistant'
in the S.C.(R)'s Section of the office of the Director

General, G.D.S.O., Barak Nagar, Lucknow (respondent No.3).
 According to her, she is the legally wedded widow of the
 aforesaid deceased who was married with the aforesaid
 deceased on 2-2-1933 as per Hindu rights and customs and
 with the union of the aforesaid deceased she has 3 sons
 and one daughter as detailed in paragraph 4(4) of the D.A.
 It has further been stated that ever since her marriage
 she has been living with the deceased as legally wedded
 wife performing Vedic ritual rites, as would be obvious
 from the perusal of Annexures 6 to 17 to the C.A., and
 after the death of the deceased she represented the
 matter to the authorities concerned for fixation of family
 pension and payment of the same to her but of no avail,
 hence she has approached this Tribunal.

3. The respondents have filed counter-reply with
 the contention, inter-alia, that late Shri Govind Ram
 Gauniyal was appointed as Lower Division Clerk in RDSO
 w.e.f. 26-12-36 and subsequently got promotion to the
 post of Assistant w.e.f. 16-11-37, while working as
 Assistant in scale Rs.425-800 (A3), he expired on
 4-11-37, i.e. before his actual retirement. The applicant,
 Smt. Kaushalya Gauniyal is illegally claiming as widow
 of the deceased. But no such declaration/statement was
 admitted by late Shri Govind Ram Gauniyal during his
 entire service life till death on 4-11-37. In this
 connection it may be mentioned that the deceased, as per his
 statement available in the record, had married one Smt.
 Mahadevi in the year 1936 and although they had a child
 but subsequently the child died. Thereafter, they had
 no issue. It is further stated that late Shri Govind Ram

Gauniyal did not maintain his married wife Smt. Mahadevi who has moved an application in the Court of Civil Judge, Pauri Garhwal. After considering the merits of the case, the Civil Judge, Pauri Garhwal, in his judgement dated 26-3-82 passed an order that the marriage of Govind Ram Gauniyal with Smt. Mahadevi was dissolved (A true copy of the said Judgement is annexed as Annexure CA-1). This apart a complaint was also received in February, 1973 from Smt. Mahadevi, married wife of late Shri Govind Ram Gauniyal that Shri Gauniyal had deserted her and married another lady for the last 7 years but as late Shri Gauniyal did not report the matter to the Government which was required under the Railway Service Conduct Rules 1966 that no Railway Servant should enter into or contract a marriage with a person having a spouse living, provided that the Government may permit the Railway Servant to enter into or contract such marriage. Accordingly he was taken up and issued with a Charge Sheet with 3 articles of charges framed against him. His reply was considered. He submitted his declaration dated 27-4-73 during the course of enquiry proceedings that Smt. Mahadevi was his legally wedded wife and had no children. He also declared that his family consisted of self 45 years, widow mother of 78 years and widow sister of 52 years (copy of declaration is annexed as Annexure CA-2).

4. It has further been stated that ^{after} the death of late Shri Govind Ram Gauniyal, Smt. Mahadevi (divorced

life of the deceased employee), Smt. Dikka Devi (mother of the deceased employee), and the applicant applied for payment of settlement dues and pensionary benefits. Since there were 3 claimants vide letter dated 29-12-33 (Annexure CA-3) all of them were asked to produce succession certificate. However, as Smt. Dikka Devi (mother of the deceased employee) alone produced the succession certificate duly granted by Civil Judge, Malihabad, Lucknow, as per judgement dated 4-2-39 (Annexure CA-4), on its basis, all settlement dues pertaining to late Shri Govind Ram Gauniyal were accordingly paid to her. Neither the applicant produced the succession certificate nor there being any declaration by late Shri Govind Ram Gauniyal that the applicant is his legally wedded wife, she is not legally entitled for any claim and the application is liable to be dismissed.

5. I have ^{examined the original copy of the certificate & small for the parties} thoroughly gone through the contents of the application and perused the papers annexed thereto.

6. This is noteworthy that ~~from~~ the perusal of of Annexure CA-4, which is a copy of the succession certificate dated 4-2-39 issued by the Civil Judge, ^{Lucknow} Malihabad, shows that the succession certificate was issued in favour of Smt. Dikka Devi Gauniyal, widow of late Shri Dharmanand Gauniyal (mother of the aforesaid deceased Shri Govind Ram Gauniyal) regarding the Estate of late aforesaid Shri Govind Ram Gauniyal, and in regard to the payment of death-cum-retirement gratuity, GIS, leave encashment and other benefits etc.

7. It is also important to point out that the aforesaid deceased did not maintain his married wife Smt. Mahadevi, who had moved an application in the Court of Civil Judge, Pauri Garhwal. This is also significant that a perusal of annexure CA-2 shows that the aforesaid deceased Govind Ram Gauniyal submitted a declaration dated 27-4-79 during the course of enquiry proceedings to the effect that Smt. Mahadevi was his a legally wedded wife and had no children and he also declared that his family consisted of self 40 years, widow mother of 78 years and one sister of 62 years. This fact also should not be lost sight of that the applicant also claims to be the legally wedded wife of the aforesaid deceased and claims herself to be the claimant of family pension. Thus, this being so, and in the face of the succession certificate issued by the Civil Judge, Lucknow dated 4-2-89 in favour of the aforesaid Smt. Dikka Devi (mother of the aforesaid deceased), I find it expedient that it will meet the ends of justice if the applicant is directed to submit Succession Certificate ^{to respondents} from the Competent Court of Law entitling her payment of the family pension as claimed by her ^{to pay the family pension or other benefits to the person in whose favour} Succession Certificate issued by the Competent Court of Law ; and I order accordingly.

8. The application of the applicant is disposed of as above. No order as to costs.

[Handwritten Signature]
 JUDICIAL MEMBER.

Dated: 25/2/94, Lucknow.

25.2.94

(tgk)