

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 NEW DELHI
 NEW BOMBAY BENCH

~~Case No.~~

T.A. No.

~~xx~~

126/87

DATE OF DECISION 29.1.1988

Smt. Khudijabi Raja Kazi, Petitioner

Mr. D. V. Gangal

Advocate for the Petitioner(s)

Versus

Divisional Rly. Manager & Anr.

Respondent

Mr. S. R. Atre, for Res-1 and

Mr. Paul, for Res-2.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. J. G. Rajadhyaksha, Member (A).

The Hon'ble Mr. . -

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. Whether it needs to be circulated to other Benches of the Tribunal?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Tr. Application No.126/87.

Smt.Khudijabi Raja Kazi,
Budhawar Peth,
Miraj.

... Applicant

V/s.

1. Divisional Railway Manager,
South Central Railway,
Hubli.

2. Chandbi Raja Kazi. ... Respondents.

CORAM: Hon'ble Member(A), Shri J.G.Rajadhyaksha.

Appearance:

Mr.D.V.Gangal, Advocate
for the Applicant.

Mr.S.R.Atre, Advocate
for Respondent No.1.

Mr.Paul, Advocate for
Respondent No.2.

JUDGMENT:

(Per Shri J.G.Rajadhyaksha, Member(A)) Dt. 29.1.1988.

The applicant (original plaintiff) had filed Regular Civil Suit No.86/85 in the Court of the Civil Judge, Junior Division, Miraj claiming half family pension being a co-widow of late Shri Raja Aminshah Kazi who had retired from the South-Central Railway and then expired on 8.5.1984. It was averred in the Suit that Respondent No.2 (Defendant No.2) therein was the other widow whose name had been indicated by her late husband in the Family Composition Certificate prior to his retirement. The Respondent No.2 was actually getting family pension but when applicant also claimed a share therein from the Respondent No.1 (Defendant No.1) they

stopped payment of family pension and advised both the plaintiff and the Respondent No.2 to obtain 'succession certificate' from the appropriate Civil Court. The Respondent No.1 had filed a written statement in the Civil Court stating that applicant was not on record as a person entitled to family pension. Respondent No.2 had also resisted the claim of the applicant stating that applicant had been divorced by her late husband and though in Criminal Proceedings No.47/75 the applicant had been granted maintenance by the Judicial Magistrate Class.I, Miraj, she had no right to claim family pension.

2. The suit has been transferred to this Tribunal under sec.29 of the Administrative Tribunals Act, 1985.

3. I have heard Mr.D.V.Gangal, the learned advocate for the applicant. Mr.S.R.Atre (for Mr.P.M.Pradhan) the learned advocate for the Respondent No.1 and Mr.Paul the learned advocate for Respondent No.2.

4. It is not necessary to discuss all the contentions raised either by Mr.Gangal or by Mr.Paul for the rival claimants to family pension. Mr.Atre for the respondents has simply stated that only a valid nomination will entitle the nominee to receive pension and he added that this was not a service matter as it was patently a dispute between two widows agitating their claims for title to the family pension.

5. Briefly, it was Mr.Gangal's contention that applicant was a legally married wife and in the absence of proof of divorce she was entitled to family pension in preference to Respondent No.2. He cited the Manual of Railway Pension Rules, 1950 in support of his claim. Mr.Paul stated that Respondent No.1 had admitted that

In the circumstances, I hereby order as follows:

ORDER

1. The judgment dt. 29.1.1988 should be modified by deleting the portion starting with the words "the proper forum" and ending with the words "liable to be rejected", appearing in the penultimate paragraph of the Judgment.
2. Similarly, paragraph 7 should be modified and should read as follows: "Since the applicant (original plaintiff) had moved the Learned Civil Judge, Junior Division, Miraj, for adjudication of her rights as a co-widow of the family pension which might be payable to the widows, the application which was transferred to this Tribunal should retransferred to the Court of the Learned Civil Judge, Junior Division, Miraj for disposal according to law.
3. A copy of this order be sent with the records of the case to the Learned Civil Judge, Junior Division, Miraj (District Sangli), after carrying out corrections in the original judgment.

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(J G Rajadhyaksha)
Member (A)

Respondent No.2 was nominated in the family composition certificate ^{who} and had actually started drawing pension until it was stopped by Respondent No.1 as a sequal to the Civil Suit filed by the applicant.

6. Having heard the learned advocates, I find that this is a dispute about dues payable to the legal representatives or heirs after the demise of a retired railway employee. The legal position is very clear. The railway administration would be justified in making payments to the nominee according to the nomination. The dispute raised by the applicant, cannot, however be decided by this Tribunal. The claim is obviously based on title to the family pension by inheritance claimed by two widows. This dispute between the legal heirs of the deceased cannot be a service matter. [The proper forum for agitating the question would be a Civil Court. The application before me is, therefore, liable to be rejected.]

7. [The application is therefore rejected. The parties are at liberty to prosecute the matter in the appropriate Civil Court. Parties to bear their own costs of this application.]

(J.G.RAJADHYAKSHA)
MEMBER(A).

Delivered in open Court today

29/9/88