

(19)

CAT/J/12

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

~~O.A.X.X.No.~~

T.A. No.

35/88

198

DATE OF DECISION 7.2.1990

Smt. Ramrati Bhav Singh Sikarwar & Ors.  
Petitioner

Mr. G.D. Samant.

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. J.G. Sawant for 1 to 3  
Mr. P.T. Gowda for 4

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. G. Sreedharan Nair, Vice-Chairman,

The Hon'ble Mr. M.Y. Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? X
2. To be referred to the Reporter or not ? X
3. Whether their Lordships wish to see the fair copy of the Judgement ? X
4. Whether it needs to be circulated to other Benches of the Tribunal ? X

  
(G. SREEDHARAN NAIR)  
VICE-CHAIRMAN.

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

Transferred Application No.35/88.

Smt.Ramrati Bhav Singh Sikarwar  
and others.

... Applicants  
(Plaintiffs)

V/s.

Union of India & Others.

... Respondents  
(Defendants).

Coram: Hon'ble Vice-Chairman, Shri Sreedharan Nair,  
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:-

Applicants by Mr.G.D.Samant.

Respondents No.1 to 3 by  
Mr.J.G.Sawant.

Respondent No.4 by  
Mr.P.T.Gowdu.

Oral Judgment:-

Dated: 7.2.1990.

[Per Shri G.Sreedharan Nair, Vice-Chairman]

This relates to Transferred Short Cause Suit No.6302 of 1984 in the Bombay City Civil Court. The first plaintiff claims to be the legally wedded wife of Late Bhavsingh Sikkarwar and it is alleged that the plaintiffs 2 to 5 are children born to her out of the said wedlock. Bhav Singh was employed as a Driver in the Central Railway when he expired on 25.6.1984. They have filed this suit for a declaration that they alone are entitled to receive the final settlement dues of the deceased Bhav Singh. It is alleged that the fourth defendant having put forward a claim before the defendants 1 to 3, as the widow of the deceased payments are not being made to the plaintiffs. As such an injunction is also prayed to restrain the defendants 2 and 3 from making the payment to the fourth defendant.

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2. In the written statement filed by the defendant, 1 to 3 it is stated that the deceased had nominated the fourth defendant, describing her as his wife, to receive his Provident Fund and Group Insurance Scheme dues. It was stated that in lieu of the rival claim, the first plaintiff and the fourth defendant were advised to obtain a succession certificate from the competent Court with respect to the amount.

3. The fourth defendant has also filed a written statement wherein she claims to be the legally wedded wife of the deceased and disputes the status claimed by the plaintiffs. It is contended that at any rate, as the nominee, the Provident Fund and Group Insurance amounts are necessarily to be paid to her.

4. From the facts stated above it emerges that both the first plaintiff as well as the fourth defendant claim to be the widow of the deceased. While the first plaintiff alleges that she was legally married by the deceased, the fourth defendant would deny it, and asserts that the deceased had married only her. In view of these rival claims the defendant 1 to 3 cannot be faulted in not making the disbursement of the dues to the plaintiffs, and as such the reliefs as claimed in the plaint cannot be granted. It is open to the plaintiffs to approach the competent Civil Court for a declaratory decree with respect to their status that is claimed. Of course, it is also open to the fourth defendant to do so.


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In the circumstances, the disbursement of the amounts <sup>can</sup> ~~should have~~ been made by the defendants 1 to 3 on the <sup>strength</sup> ~~bank~~ of the decree of the Civil Court.

5. The Counsel of the fourth defendant submitted that, at any rate, the Provident Fund amount has to be disbursed to the fourth defendant as the nominee. The submission cannot be accepted in view of the rules framed by the Railways under the Provident Fund Act. It is provided in Clause (ii) of Rule 943 that even if there is a nomination if the amount exceeds Rs.5,000/- if the nominee is not a dependent, it shall be payable only on production of probate or letters of administration or a succession certificate entitling him for receipt of payment of the amount.

6. In the result the Transferred Suit is <sup>is</sup> dismissed subject to observations above.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(G. SREEDHARAN NAIR)  
VICE -CHAIRMAN.