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

Tr.Application No.50/88

&

Original Application No.357/88

1. Union of India
through General Manager,
Central Railway,
Bombay V.T.

2. The General Manager,
Central Railway,
Bombay V.T.

..Appellants
(Original Defendants)
in T.A.No.50/88

V/s.

Shri Fattelal Nanakram Nayak,
Residing at Railway Qtr.No.
RB/III/SS/992/B Forty Blocks,
Bhusawal,
District: Jalgaon.

..Respondent
(Original Plaintiff)
in T.A.No.50/88

Smt.Shila Bai Widow of
Fathelal Nanakram Nayak
C/o Jogendra Kumar F.Nayak,
Stationary Clerk,
Chief Workshop Manager's Office,
Central Railway Loco Works,
Parel,
Bombay-400 012

.. Applicant
in O.A.No.357/88

V/s.

Union of India through
the General Manager,
Central Railway,
Bombay V.T.

.. Respondent
in O.A.No.357/88

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,
Hon'ble Member(A), Shri M.Y.Priolkar.

Tribunal's Order:-

Dated: 20.3.1989

One Fathelal Nanakram Nayak had filed Regular
Civil Suit No.401 of 1978 in the Court of the Civil
Judge, Junior Division, Bhusawal, praying that the birth
date of 3.6.1919 recorded in his service record was not

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correct and it should be changed to 20.3.1923. He had also prayed that his retirement on 1.7.1977 on the basis of the birth recorded in his service record should be declared illegal and invalid.

2. The IIIrd Joint Civil Judge to whom the suit was transferred decreed the suit by Judgment delivered on 6.3.1985. He inter-alia held that the birth date of the plaintiff recorded in service record was wrong and hence his retirement on the basis of that birth date as 1.7.1977 was illegal and invalid. He further held that the correct birth date of the plaintiff was 20.3.1923 and directed that correction should be made to that effect.

3. The decree was signed on 17.8.1985 i.e. more than five months after the judgment was delivered. However, before that date the respondents had applied for certified copies and decree on 27.3.1985 and copies were supplied to them on 11.9.1985. On 30.9.1985 i.e. within 10 days after receiving the copies they have preferred an appeal against the judgment and decree passed by the IIIrd Joint Civil Judge, Junior Division, Bhusawal. As there ^{was} ~~were~~ some delay in filing the appeal they have filed an application for condonation of delay on the same date i.e. on 30. 9.85. That application was numbered as Misc.Appeal No.164 of 1985 when it was pending in the District Court. By subsequent order dated 19.7.1986, the application as well as the appeal are transferred to this Tribunal. In this Tribunal that application is numbered as Transferred Application No.50 of 1988 while Misc.Application No.164 of 1985 is numbered as Misc.Petition No.126 of 1989.

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4. Original Plaintiff, namely, Fathelal Nanakram Nayak died on 3.3.1987. His Widow Shilabai has filed Original Application No.357 of 1988 for execution of the decree passed by the IIIrd Joint Civil Judge, Junior Division, Bhusawal. In that Original Application the legal representatives of the deceased plaintiff have filed an application on 19.12.1988 for bringing them on record. That application is numbered as Misc.Petition No.773 of 1988. We allow that application and direct that the legal representative mentioned in that application be shown as applicants in O.A.No.357 of 1988.

5. As regards Transferred Application No.50 of 1988 Mr.Taher Husain who had appeared for the widow of the Original Plaintiff ^{on 6-10-88} stated that if necessary he would file an application to bring Shilabai as widow of the deceased. But no such application seems to have been filed in the Transferred Application. Hence it was submitted by Mr. Mahalle that the appeal has abated. Mr.J.G.Sawant to argue on next date regarding the legal position, in the light of the provisions of Rule 18 of the Central Administrative Tribunal(Procedure)Rules, 1987 and Order XXII of the Civil Procedure Code.

6. Keep this case on 5.6.1989 for directions. On that date the original defendants i.e. the appellants should clarify as to why they should not be directed to comply with the directions passed by the IIIrd Joint Civil Judge, Junior Division, Bhusawal.

5-6-89.

TR. 50/88 & OA 353/88.

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Hearst Mr. Mohan Gudame for Mr Mahalle advocate for the applicant in OA 353/88 and Mr. J. G. Sawant for the respondents in OA 353/88 and for the applicant in TR. 50/88.

Mr. Gudame states that Mr Mahalle could not come to the Tribunal because his mother is seriously ill. Hence OA 353/88 and Tr. 50/88 are adjourned to 10th July 1989. On that day the respondents to explain as to why they should not be directed to comply with the directions in the decree passed by the IIIrd Joint Civil Judge, Junior Division, Bhusawal.

Sd/-
(M. V. Priolkar)

Sd/-
(M. B. Mignardars)