

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

Original Application No. 206/89.

1. Smt. Vatslabai Sitaram Jadhav,  
 2. Shri Raghu alias Vasant  
 Sitaram Jadhav,  
 At: Pimple-Nilakh,  
 Tal. Haveli, Aundh Camp,  
 Pune-27. .. Applicants

V/s.

1. Union of India,  
 through General Manager,  
 Ammunition Factory,  
 Kirkee, Pune.  
 2. General Manager,  
 Ammunition Factory,  
 Kirkee,  
 Pune.  
 3. Smt. Tulsabai Sitaram Jadhav,  
 Hanuman Chawal,  
 Kasarwadi,  
 Pune-34. .. Respondents.

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

Appearance:

1. Shri D.D. Dandawate,  
 Advocate for the  
 applicants.  
 2. Mr. R.K. Shetty,  
 Advocate  
 for respondents No. 1 and 2.  
 3. Mr. N.V. Agrawal,  
 Advocate for  
 respondent No. 3.

ORAL JUDGMENT:-

Dated: 4.4.1989

(PER: Shri M.B. Mujumdar, Member (J))

One Sitaram Mahipati Jadhav who was working as Motor Cleaner in the Ammunition Factory, at Kirkee, Pune died on 27.10.1988. He had put in service of about 25½ years and he was to retire on superannuation on 28.2.1989. According to the applicants, applicant

No.1, Smt.Vatslabai was married to the deceased Sitaram Jadhav about 40 years back before his death, and applicant No.2 Raghu alias Vasant Sitaram Jadhav, who is now aged 35 years is their son. On 29.12.1988, Smt.Vatslabai made an application to the authorities of the Ammunition Factories for giving her the terminal benefits. But the General Manager of the Factory by his letter dated 14.2.1989 informed her that valid nominations for family pension, Death-cum-Retirement Gratuity, General Provident Fund, Central Government Employees Insurance Scheme, etc., were executed by the deceased Sitaram Mahipati Jadhav in favour of Smt.Tulsabai Sitaram Jadhav (respondent No.3) as his wife. The General Manager informed that it was obligatory on his part to pay the terminal benefits to the nominee, i.e. Smt.Tulsabai.

2. On 3.3.1989, the applicants have filed this application under section 19 of the Administrative Tribunals Act, 1985 praying that all the dues such as General Provident Fund, Death-Cum-Retirement Gratuity, Family Pension, etc., should be paid to applicant No.1 Smt.Vastalabai only, and direct the authorities of the Ammunition Factories to give suitable employment to Applicant No.2 Raghu alias Vasant Sitaram Jadhav in the Ammunition Factory. The applicants have also prayed for some interim relief, namely, for restraining the authorities of the

Ammunition Factory from paying the amounts to respondent No.3 Smt.Tulsabai.

3. Notices were issued to the respondents regarding admission and interim relief. Respondent No.3 Smt.Tulsabai has filed reply opposing admission of the application and the reliefs claimed therein. She has also submitted that this Tribunal has no jurisdiction to entertain and decide this application. She has denied that applicant No.1 Smt.Vastalabai is the legally married wife of the deceased Sitaram. It is pointed out that applicant No.1 was previously married to one Maruti Makar and she has not taken divorce from him. On the contrary, according to respondent No.3 she was legally married with the deceased Sitaram about 25 years back. It is her case that the deceased Sitaram had executed nomination in her favour in respect of Death-Cum-Retirement Gratuity, General Provident Fund, Central Government Group Insurance Scheme, Family Pension, etc., in his service record. It is her further case that the deceased Sitaram had executed <sup>a</sup>/will in her favour on 12.5.1988. She has produced a xerox copy of the will. Other contentions mentioned in the written statement need not be narrated here.

4. As the main facts are not in dispute, we admit this application and decide it finally.

5. We have heard Mr.D.D.Dandawate, learned advocate for the applicants, Mr.R.K.Shetty, learned advocate for respondents No.1 and 2 and Shri N.V.Agarwal, learned advocate for respondent No.3.

6. Though respondent No.3 had denied in her written statement that applicant No.1 Vatslabai was legally married to the deceased Sitaram, a copy of will produced by her shows that the deceased was having two wives, namely, Smt.Vatslabai i.e. applicant No.1 and Smt.Tulsabai, i.e. respondent No.3. It is further stated in the will that the deceased was having one son by name Vasant, aged 25 to 30 years by Vatslabai. However, Vatslabai was not living with the deceased since 25 years while Tulsabai was staying with him since 25 years. In view of this position it is difficult to decide as to who is the heir or heirs of the deceased Sitaram. The matter is more complicated because the deceased has executed a will in favour of respondent No.3.

7. Of course in view of the nomination executed by the deceased Sitaram in favour of respondent No.3, respondents No.1 and 2 are fully justified in paying the amount to respondent No.3. But nomination by itself does not create any legal right. Moreover, according to second proviso to Rule 5 of the General Provident Fund(Central Services) Rules, 1969, the subscriber has to make nomination only in favour of a member or members of his family. If applicant No.1 was the legally married wife of the deceased then the marriage of respondent No.3 Smt.Tulsabai to deceased Sitaram 25 years back <sup>WGS</sup> will become void. However, complicated questions about legality of the marriage or heirship cannot be decided by this Tribunal because that will not be service matter. Legality and validity of the