

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA No. 649 of 2005**

Date of order : 29 February, 2008

**C O R A M**

Hon'ble Mr. Amit Kushari, Member[Admn.]

Hafizan Khatoon, wife of late Khalil Mian resident of Village – Line  
Sugauli, P.O. & P.S. - Sugauli, District – East Champaran [Bihar].  
..... **Applicant**

Vrs.

1. Union of India through the Divisional Railway Manager, Central Eastern Railway, Munger.
2. The General Manager, Central Eastern Railway, Hajipur.
3. The Chairman, Railway Board, Rail Bhawan, New Delhi.
4. The Divisional Personnel Officer, East Central Railway, Samastipur.

..... **Respondents.**

Counsel for the applicant : Shri Radha Mohan Singh  
Counsel for the respondents : Shri P.K.Tiwari

**ORDER**

**Amit Kushari, Member[A] :-**

The applicant is the first wife of Khalil Mian who was a railway employee. Khalil Mian was not an educated person. Since the applicant

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could not give birth to a son and had only a daughter, Khalil Mian contracted another marriage [Nikah] with one Aaisa Khatoon taking advantage of the Muslim Personal Law and also taking advantage of the helplessness of an uneducated wife. While Khalil Mian was filling up the forms of family pension in his office, some railway authorities advised him not to mention the names of both the wives since that could create complication and create problems in the drawing of family pension. Thereafter, Khalil Mian mentioned the name of only his second wife Aaisa Khatoon who was the mother of Khalil Mian's sons. Hafizan Khatoon, i.e. the applicant was quietly forgotten and she had no other way but to maintain silence over the matter. When Aaisa Khatoon died in June, 1998 during the life time of Khalil Mian – Khalil Mian ultimately remembered his forgotten first wife Hafizan Khatoon – since he was seriously ill and death was knocking at his door. On 28.5.1999 – merely one and half month's before his death, Khalil Mian made a declaration about the existence of his first wife Hafizan Khatoon and requested the railway authorities to give family pension to Hafizan Khatoon after his death. The hapless woman received at last some recognition from her husband when he was on his death bed. However, this automatically did not lead to her recognition by the respondent railways who started asking many questions.



Where was she all these years and why had not Khalil Mian mentioned about her existence in the official papers, they asked. The widow tried to convince by producing copies of voters lists and ration cards to show that she was indeed the first wife of the deceased Khalil Mian. The respondents did not believe this story and asked her to produce the succession certificate from the District Court. In the District Court, all the step-sons and step-daughters of the applicant had appeared and they had deposed that they had no objection, if Hafizan Khatoon was given succession certificate as well as pension. All the opposite parties gave a joint written statement supporting the case of the applicant Hafizan Khatoon giving no objection to grant succession certificate. The eldest step-son Manir Alam also gave a written statement that he had no objection if pension was granted to the applicant who was his step mother. The District Judge thereafter issued following orders on 18.3.2002 :-

“This is a petition under Section 372 of the Indian Succession act for grant of a succession certificate in the name of the applicant.

2. The case is that her husband performed two marriages. The applicant is the first wife and one Aisa Khatoon was the second wife. The said Aisa Khatoon died during the life time of her husband. O. P. No. 6 is the daughter from the first wife and rest O.Ps. Are the sons and daughters from the second wife. After retirement from Railway

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service the husband of the applicant was getting pension. He died on 13.7.1999. After the death of her husband the applicants claims to be entitled to get the pension. She has filed pass book bearing no. 5605228 standing in the name of her husband Khalil Mian in which there is balance of Rs. 20/- only. She has also filed death certificates of Khalil Mian and Aisa Khatoon. The applicant has prayed to issue a Succession Certificate in her name.

3. After admission general citation was sent inviting other claimants to come to oppose it. But one came to oppose it. All the O.Ps. After putting their appearance filed their joint written statement supporting the case of the applicant making no objection if a Succession Certificate is granted to the applicant. A.W. 2 is the applicant Hafijan Khatoon. She has supported her case in the petition of Succession Certificate.

4. Perused the record and the papers filed. Since there is no objection from any corner, therefore, I do not find any impediment as to why Succession Certificate should not be granted to the applicant.

5. Succession Certificate is granted only in respect of the property of a deceased person which is in the form of specific debts and securities and interest thereon. A Succession Certificate does not constitute a jural adjudication as regards the heir. It merely grants on authority to the applicant to realise the debts.

6. Under the circumstances, let a Succession Certificate be issued in the name of the applicant empowering her to receive the amount of the Pass Book left in deposit by her deceased husband. This



Succession Case is accordingly disposed of.”

The respondents were still not satisfied. They informed her that the order of the District Judge does not mention clearly that she was entitled to get family pension or that she was a legal heir. They advised the applicant to get another order from a competent Judge mentioning clearly that she is entitled to receive family pension. Seeing no other way, the applicant has filed this O.A.

2. The applicant is 75 years old and she walks on crutches. Her husband has died and she has no son. She is not getting any family pension from the respondents railways which is an affluent big department of Govt. of India. The story of this applicant indeed indicates the pitiable condition of a woman in rural India, specially if she is childless or sonless and if she is born in an uneducated poor family. She does not get anything from the society she lives in and when she interacts for help with the Govt., she faces the hostility of a heartless bureaucracy which is not interested in giving any genuine relief to any one – but is interested only in picking holes in every proposition.

3. After carefully reading the order of the District Judge, I am fully convinced that the applicant Hafizan Khatoon is indeed the first wife of the deceased Khalil Mian and now she is the only widow of Khalil Mian

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because the second wife has also died. So there could not be an iota of doubt that she being the only widow [that too the first wife] of the deceased railway employee is fully entitled to get family pension.

4. Therefore, the O.A. succeeds. The respondents, specially Respondent No.5, the Divisional Personnel Officer, East Central Railway, Samastipur is directed to issue orders granting family pension to the applicant within a period of two months from the date of receipt of this order. The impugned order issued by the respondent No.5 [Annexure-A/13] dated 7.7.2005 is hereby quashed. No costs.

  
[ Amit Kushari ]M[A]

mps.