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OA 701/05

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA**

OA No.701 of 2006

Date of order : <sup>12</sup> October , 2007

C O R A M

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

Smt. Jageshwari Devi W/o Sri Chandradeo Prasad.

Sri Chandradeo Prasad, S/o late Sukhdeo Mahto.

Both residents of village – Ugawan, P.O. - Ugawan, P.S.  
Ashthawan, District – Nalanda.

Applicant.

Vrs.

1. The Union of India through General Manager [Establishment]  
Western Railway, Headquarter Office Church Gate, Mumbai -20.

2. The Divisional Manager, Mumbai Central Division, Western  
Railway, Mumbai-8.

3. Smt. Anita Kumari wife of late Anand Bharti, Fitr III [Apprentice]  
Central Workshop Office, Near Office of Divisional Railway  
Manager, Western Railway, Mumbai Central. Mumbai -8.  
Formerly residing at B/301, Ideal Park, Achak Road, Nala Sopara  
Basti, District – Thane, Mumbai, at present residing in the House of  
Pradnya Pradeep Shelar Vinayak Niwas [ Bhuskuti] Ist Floor,  
Manpuda road, Opposite Gav Devi Mandir, Pandurang Wadi,  
Dombiwili[E], Mumbai-42201.

Respondents.

Counsel for the applicant : Shri Manish Kumar with R.K.P.Singh

Counsel for the respondents : Shri B.B.Kumar, ASC

Counsel for the private respondent : Shri R.K.Sinha.



ORDER

Amit Kushari, Member[A] :-

This is a dispute between the applicants and the private respondent in which the official respondents [ the railways ] do not have much role to play. The applicant no.1 is the mother-in-law of the private respondent and the applicant no.2 is the father in law of the private respondent. The eldest son of the applicants no.1 and 2, Shri Anand Bharti secured a job in Western Railway, Mumbai through his own efforts. Thereafter, he married Anita Kumari, the private respondent. Very soon after marriage, it was found that Shri Anand Bharti [husband of the private respondent] was suffering from abdominal cancer and he underwent prolonged treatment at Tata Memorial Hospital, Mumbai. Within two years of his marriage, he passed away after serving the railways for about five years. His death-cum-retirement benefits came to around Rs.1.80 lacs and his family pension was fixed at Rs. 1380/- per month which with DA comes to about Rs.2500/- per month. Since Anita Kumari, the widow was alive, the railways paid the entire retiral benefits and family pension to the widow, Anita Kumari.

2. The respondent railways have said during arguments that they have a rule that if the widow of a deceased employee is alive then other legal heirs of the deceased employee do not get the retirement benefits and family



pension. 3. Anita Kumari, further applied for compassionate appointment since she had no means of livelihood being widowed at a young age. The railways took pity on her and appointed her as Fitter Gr. III in Mumbai. She is now admittedly getting a monthly salary of Rs. 7000/- approximately. She has hired a room in Mumbai for which she has to pay Rs.2000/- as rent per month. The ld. counsel for the private respondent pointed out that although she gets a family pension of Rs. 2500/- and a salary of Rs.7000/-, she has a hand to mouth existence in a costly city like Mumbai where she is living all alone.

4. The ld. counsel for the applicants says that the respondents railways have completely ignored the applicant no.1 while distributing the retiral benefits and family pension although she being a mother of the deceased employee is a class I heir and she was entitled to a share in the monetary benefits. The ld. counsel for the applicants further says that the applicant no.2 [ the father-in-law of the private respondent ] is quite old and he is unable to earn <sup>for</sup> ~~any~~ his living at this stage of life and he has sold some of his land for survival. Their other son who is also in his thirties, is unemployed and they have two unmarried daughters also. In view of this he says that the private respondent must be directed to part with a portion of the family pension and a portion of the retirement benefits which <sup>she</sup> ~~he~~

for

obtained at the time of death of Shri Anand Bharti.

5. The ld. counsel for the private respondent pointed out that this is a civil dispute regarding inheritance between the mother-in-law and the daughter-in-law and the Tribunal has no jurisdiction to hear this matter. The railways [the official respondents] have already paid all the dues and they do not have to pay anything more. How those benefits are to be distributed between different heirs is a matter which can be looked into by a civil court only and certainly not by the Central Administrative Tribunal, he contends.

6. The ld. counsel for the applicant rebuts this and says that the Tribunal can always direct the railways to apportion<sup>h</sup> of the family pension and the monthly salary of the private respondent. He also says that since the private respondent obtained compassionate appointment due to death of Shri Anand Bharti, She is duty bound to maintain Shri Anand Bharti's dependent parents. At this stage, Shri R.K.Sinha, ld. counsel for the private respondent pointed out that he has been paying Rs.500/- per month to the applicant no.1 up to July, 2005. He says that this payment was stopped by the private respondent because she had incurred a huge expenditure on account of medical treatment of Anand Bharti and she had to take loan for the purpose. She is still repaying the loan and so it has become very

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difficult for her to spare any amount for her father-in-law and mother-in-law. He also points out that the applicant no.1 and 2 never visited Mumbai where their ailing son was hospitalised in the Tata Memorial Hospital and she alone looked after her husband during the last days. He also says that since the applicant no.1 and 2 failed to show any natural parental affection towards their son and also failed to do parental duties towards the son, they should be ashamed to ask for a share in the daughter-in-law's salary. Nevertheless, he volunteered that private respondent will be agreeable to pay Rs.1000/- per month to the applicants no.1 and 2. The ld. counsel for the applicant says that this amount is too meager and, therefore, cannot be accepted. He says that 50 per cent of the family pension and 20 per cent of the monthly salary of the private respondent should be paid by the railways to them. The ld. counsel for the applicant quotes a judgment of the Patna High Court where a son who had obtained compassionate appointment was asked to pay 20 per cent of his salary to his widowed step mother.

7. I have carefully considered the pleadings and the arguments of both sides. In the circumstances of the case, I feel that the applicants should have approached a Civil Court for apportioning the benefits between the daughter-in-law, mother-in-law and the father-in-law. The Tribunal does

not have any such authority to decide such family disputes. On inheritance of death benefits, all that I can <sup>direct</sup> ~~say~~ at the moment is that since the private respondent has volunteered to pay Rs. 1000/- [one thousand] per month to <sup>the</sup> applicants, the respondent no.2 <sup>shall</sup> ~~can~~ deduct Rs.1000/-per month [with a five per cent raise every year] from the family pension of the private respondent and give it to the applicant no.1 and 2, if they submit an affidavit that they will voluntarily accept this amount every month without any protest. If the applicants are unwilling to give such an affidavit, then the railways need not take any action on these lines and the applicants in such circumstances will have to move before an appropriate forum for relief.

8. With these observations and directions, this O.A. is disposed of. No costs.

mps.

  
[ Amit Kishari ]  
Member [Admn.]