

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NOS. : 131 OF 1999 & 141 OF 1999.

Dated this Thursday, the 9th day of November, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Smt. Pavayee Appavu,
Wd/o. Appa Kuppa,
Ex. S/Wala Masjid Railway Stn.,
Under Executive Control of
D.R.M. (Optg.),
Mumbai C.S.T.

Applicant in
both O.As.

(By Advocate Shri K. B. Talreja)

VERSUS

1. Union of India through
The General Manager,
Central Railway,
C.S.T.M., Mumbai.
2. The Divn1. Railway Manager,
Central Railway,
Mumbai C.S.T., Mumbai.
3. Smt. Chalia Amma,
Mother of Late
Shri Appa Kuppa.

... Respondents in
both O.As.

(By Advocate Shri A. I. Bhatkar).

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

These two O.A. Nos. 131/99 and 141/99 are filed by the same applicant, namely - Smt. Pavayee Appa against the same respondents. In both these cases, apart from the two official respondents, one Smt. Chalia Amma has been arrayed as Respondent No. 3 in both the aforesaid O.As. in view of the Roznama order dated 22.06.2000, in view of M.P. No. 161/2000 and 162/2000 being allowed after due consideration of all facts.

2. The basic facts in the two O.As. are the same, although the reliefs sought are different. In O.A. No. 131/99 the relief

sought is for a direction to Respondents to appoint the Applicant on compassionate ground. In O.A. No. 141/99 the relief sought is for a direction to Respondents to release the husband's retiral dues and family pension in favour of the Applicant alongwith interest due.

3. The basic facts of the case are that the husband of the Applicant, Appa Kuppa, died on 04.11.1994. At that time he was working as Safaiwala. The Applicant claims that she had married the deceased Railway employee on 19.11.1968 and has provided a certificate of marriage, copy at Annexure-3, page 7 to the O.A. It is her grievance that the Respondents have neither provided her compassionate appointment nor released the retiral dues/family pension. The Applicant is, therefore, before this Tribunal seeking the reliefs as described above.

4. The stand of the Respondents in O.A. No. 131/99 is that the Respondents agree with the basic fact and had infact started processing the application for compassionate appointment and had even taken some action in pursuance thereof. However, in the meantime, there was a representation from Smt. Chalia Amma, mother of the late Appa Kuppa, stating that the Applicant had deserted her husband some three months after the marriage and in fact got remarried to another man. It was in this background that the official Respondents had withheld action on the prayer in O.A. No. 131/99. The Respondents have also stated in reply in O.A. No. 141/99 that this was the reason why the matter regarding the payment of dues to the Applicant was not finalised. Thus, it was in this background that the Tribunal considered the matter of allowing the mother-in-law of the Applicant to be arrayed as

Party Respondent in the case. Now the effort made in serving the mother-in-law, Smt. Chalia Amma, has been considered by this Tribunal from time to time and is recorded in the Roznamas on both O.As. dated 20.06.2000 and 22.06.2000. Thereupon the Railways had made attempt to serve the mother-in-law through a Welfare Inspector i.e. through a responsible official of the Welfare Organisation of the Railways.

5. I have considered the facts of the case made out in both O.As. and have also considered the arguments made before me by both the Learned Counsels. I have also seen the papers in the case, specially the report submitted by Chief Labour Welfare Inspector (C.L.W.I.) dated 18.08.2000. This report is available on record in both O.As. i.e. page 23 in the first O.A. and at page 30 in the second O.A.

6. In the first place, it must be seen that the Railway Authorities had started processing the case on both counts, namely - compassionate appointment and payment of retiral dues with reference to normal rules. It is only in the wake of the objection taken as described above that the controversy had arisen and as a result of this controversy, the Railway Authority had held their hand. Admittedly, the correct action of allowing full opportunity to the mother-in-law has been provided and that too, through a legal process where she has been made a party. Now the question of service had posed some difficulty, as is evident from the Roznama orders and from the report of the Chief Labour Welfare Inspector dated 18.08.2000 referred to above.

7. I have carefully seen the aforesaid report. It is signed by one Mrs. T. George, C.L.W.I., CSTM. It is obvious that an

attempt has been made by a senior and responsible person in the Divisional Office of the Central Railway at Mumbai, C.S.T. It has been stated in this report that she was deputed to contact Shri. Khandaswamy, father-in-law of the deceased employee to get the address of the mother-in-law for the purpose of serving notice on her. Therafter, the C.L.W.I. has proceeded to Salem and on local enquiry, having found the said Shri Khandaswamy to have unfortunately expired, obtained the address of the mother-in-law, Smt. Challaiamma. She then proceeded to the village concerned, and was successful in finding the lady, who has refused to accept notice or to be present on the next date. Further, details are described. On perusal of the above report, I am convinced that full requirement of service have been fulfilled, both in letter and in spirit. It therefore, has to be concluded that the said objection raised by the mother-in-law, Smt. Chalia Amma, has to be considered as invalid after drawing adverse inference, in view of the details discussed above.

8. It would, therefore, be appropriate for the Railway Authorities to consider the case of the Applicant with reference to the prayers made in both O.As. in accordance with rules, assuming that the objections raised by Smt. Chalia Amma do not hold to be valid. They will ofcourse need to examine all the facts of the case as per rules and decide on the request made and the entitlement of the applicant on merits and in accordance with law.

9. Both the O.As. are therefore disposed of with the direction to the official respondents to consider the case of the applicant for the relief sought/entitlement in accordance with ~~Rules~~ and laws and on merits, keeping in view the above observations. There will be no order as to costs.

(B. N. BAHADUR)
MEMBER (A).

OS*