

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:353/99

THURSDAY the 14th day of OCTOBER 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Smt. Hanumanthi Tammanna Bhimsa  
Residing at  
284, Ambedkar Nagar,  
Dehuroad, Dist. Pune.

By Advocate Shri J.M.Tanpure.

V/s

1. Union of India through  
The Secretary  
Ministry of Defence,  
South Block, New Delhi
2. Chief Ordnance Officer  
Ammunition Depot,  
Dehuroad, Dist. Pune.
3. The controller of Defence  
Accounts(Pensions)  
Allahabad.
4. The Manager,  
Bank of India,  
Dehuroad, Dist. Pune.
5. Smt. Hanumanthi  
W/o Late Tammanna Bhimsen,  
Chalawadi.
6. Miss. Savitha  
D/o Late Tammanna Bhimsen  
Chalawadi.
7. Bhimsen  
S/o Late Tammanna Bhimsen  
Minor.
8. Kumari Neelima  
D/o Late Tammanna Bhimsen  
Chalawadi.

Respondent No.7 and 8 through  
natural guardian respondent No.5  
all respondent No.5 to 8  
Residing at H.No.284,  
Ambedkar Nagar,  
Dehuroad, Pune. .... Respondents.

By Advocate Shri R.K.Shetty.

:2:  
ORDER(ORAL)

{Per Shri Justice R.G.Vaidyanatha, Vice Chairman}

In this application the applicant is claiming that she is entitled to the family pension after the death of her husband Shri Tammanna Bhimsa. The official respondents have filed reply. Notice sent to respondent No. 5 to 8 have been received back with the postal remark as "not claimed". I have heard the learned counsel for both sides.

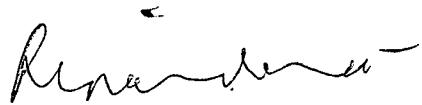
2. The applicant claims to be wife of the deceased employee Shri Tammanna Bhimsa who was working as Mazdoor under respondent No.2 at Dehuroad, Pune. He died on 4.1.1997. Therefore the applicant being wife of the deceased is entitled to full family pension. It appears that respondent No. 5 to 8, who are second wife and children of the deceased employee, filed a suit No.118/97 before the Additional Civil Judge, Raichur. The Court has granted partition of movable and immovable properties between the two wives and children including partition of the family pension. The applicant is aggrieved by the direction in the judgement for partition of family pension. Therefore she has approached this Tribunal claiming that she is exclusively entitled to family pension as per rules.

3. The respondents in their reply have stated that the application is not maintainable and this Tribunal has no jurisdiction to interfere with the judgement of the Civil Court.

4. Though the learned counsel for the applicant addressed the arguments on merits, I am afraid we cannot go into the merits of the case. Rightly or wrongly there is a decree of Competent

Court for partition of movable and immovable properties of deceased employee including partition of family pension. This Tribunal cannot sit in judgement over the correctness and legality of decree granted by the Civil Court granting partition of family pension. If the judgement is wrong he can file an appeal. The Tribunal with a limited jurisdiction cannot sit in an appeal over the decree passed by the Civil Court. If the decree is illegal or bad in law, aggrieved party will have to approach the higher authority. He cannot approach the Tribunal with limited jurisdiction namely to decide the service matters. As far as the decree of Civil Court, the official respondents are bound to obey the decree and make the payment, even if this Tribunal now holds that the applicant is alone entitled family pension then the respondents may not be able to obey the direction in view of the order passed by the Civil Court. Therefore it is better and desirable that applicant should approach the appropriate forum to challenge the order of the Additional Civil Judge, Raichur dated 17.3.1998. In the facts and circumstances of the case the application is not maintainable in view of the decree of Civil Court.

5. In the result OA is rejected at the admission stage, subject to above observations. No order as to costs.

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN

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