

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 1088/99

Date of Decision: 12.10.2001

Smt. Leelalavati,

Applicant

Shri K.B. Talreja

Advocate for Applicant

Versus

Union of India & 2 others

Respondents

Shri V.S. Masurkar.

Advocate for Respondents 1 & 2

Shri Dilip Shah

Advocate for Respondent No.3

CORAM: HON'BLE SMT. SHANTA SHAstry. ... MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library

Shanta S
(SMT. SHANTA SHAstry)
MEMBER (A)

Gajan

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 1088/1999

THIS THE 12TH DAY OF OCTOBER, 2001

CORAM: SMT. SHANTA SHAstry MEMBER (A)

Smt. Leelavati,
Wd/o Deceased Employee Shri
D. Ramaswamy, Carpenter,
T.No.00505833 of Matunga Workshop,
Central Railway,
Matunga, Mumbai-19. ..Applicant

By Advocate Shri K.B. Talreja.

Versus

1. The Union of India,
through the General manager,
Central Railway, Mumbai CST.
2. The Chief Workshop Manager,
Central Railway, Matunga
Workshop, Mumbai-19.
3. Smt. Gomathi, Khalasi,
CWM's Office, Matunga,
Central Railway, Mumbai. ... Respondents

By Advocate Shri V.S. Masurkar for R1 & R2.
Shri Dilip Shah for R3.

O R D E R

This application is filed by the widow of late Shri Ramaswamy, who was an employee of the Railways in the Matunga workshop and expired in Tamil Nadu on 02.02.1999. The applicant has prayed for releasing the retirement benefits including the family pension, provident fund, gratuity, commutation value of pension etc., and to pay her interest at the rate of 15% on the

N

...2.

delayed payment. According to the applicant, the deceased employee left behind only the applicant with one son R. Ayyappan and one married daughter Mrs. Shankaravadi and therefore, only the mother and son are the legalheirs and they have rightful claim over the retiral benefits. The applicant has stated that her son has made a separate application for appointment on compassionate grounds. The applicant submits that she and her son are the legalheirs of the deceased railway employee, which can be proved from the privilege pass No.D006591 dated 4.1.93 valid till 1.4.93 issued to the applicant. She was married to the deceased railway employee Shri D. Ramaswamy on 10th November, 1975 at their native place. However, when the applicant approached the respondents for family pension and appointment of her son on compassionate grounds vide joint application dated 30.9.99 the same has not been granted by the respondents. The applicant has further submitted that her deceased husband had illicit relations with one lady namely Smt. Gomathi and because of which there was no cordial relationship between her and her husband. His death took place outside the home and she got the information only through the sister of the deceased. She had also sent a notice through an advocate on 22.11.99.

2. The respondents have not given any reply to the applicant. As per their records, the deceased employee Shri D. Ramaswamy had taken a divorce and the applicant relinquished her rights due to differences of opinion between the applicant and her husband. The deed of divorce was submitted showing the termination of their marriage. This was brought on record by the late railway employee to the notice of the respondents while submitting the combined nomination form for provident fund, DCRG etc., along with the affidavit about the termination of earlier marriage and remarriage with Smt. Gomathi on 22.4.1996. The deceased employee had also submitted the extract from the Hindu Marriage Register kept by the Registrar of Marriages, Kallidaikurichi. Similarly, the respondents have also produced copies of the nomination form filed by the railway servant on 17.6.97. Though the original deed of divorce is in Tamil, a true translation duly attested has been submitted.

3. Smt. Gomathi had made the claim for provident fund and gratuity as well as appointing her on compassionate grounds after her husband's death on 2.2.99. She had produced the death certificate of her husband and the respondents waited for other claims, but

at that time the applicant did not make any claim within reasonable time. She made an application on 30.9.99 i.e. eight months after the death of her husband. In view of the proof provided by Smt. Gomathi i.e. Respondent No.3 brought in through amendment of the OA, the respondents released the provident fund, CGEIS amount of Rs.70,137/- to Smt. Gomathi on 19.7.99, since the applicant's husband had made a valid declaration and had submitted the nomination form that can be revoked only by a fresh declaration. The respondents also submitted that Smt. Gomathi has already been appointed on compassionate grounds. The respondents did not deny that the applicant was the wife of late Shri Ramaswamy as per the record furnished by the railway servant on 21.9.90. But he had furnished another record of passes and PTOs in which he has mentioned Smt. Gomathi as his wife and Kumari Deepalakshmi as his daughter. The privilege pass claimed to be the proof by the applicant was valid only upto 1993. Things have changed thereafter and after the deceased employee married Respondent No.3 he nominated Respondent NO.3 for receipt of the dues after his death. The applicant had been separated from the deceased employee for more than eight years before the death of the deceased employee. During those eight years, she never stayed with the deceased

employee. This is evident from the fact that the information about his death was communicated to the applicant by the sister of the deceased. The applicant did not also approach any court when the marriage between the deceased railway employee and Respondent NO.3 took place in 1996. According to the respondents, the applicant has no claim and rightly Respondent No.3 has been paid all the retiral dues of the late railway employee.

4. I have heard the learned counsel for both the side and have given careful consideration to the pleadings. The respondents have come out with satisfactory documentary materials to show that they have no reason to doubt the claim of Respondent No.3 being the wife of the late railway employee and being the person nominated by the late railway employee for receiving provident fund, gratuity etc. A copy of the deed of divorce has also been produced. There is enough material to show that the respondents are justified in releasing the retiral dues of the late railway employee to his second wife i.e. Respondent No.3. The applicant has not been able to produce any satisfactory material to establish that she was the nominee to receive the retiral dues of her late husband or that she was not

divorced from her late husband. Nowhere has she denied that she was not separated from her husband, nor did she challenge her husband's marriage to Respondent No.3. The learned counsel for the applicant had tried to argue that the signature on the nomination form was forged and the learned counsel also says that the translation of the deed of divorce from Tamil into English was not reliable and it is not valid. However, there is otherwise enough proof on record to show that the Respondent NO.3 was duly nominated. Even if as per the contention of the learned counsel for the applicant, it were to be said that the signature was forged on the nomination form of provident fund etc., still the applicant's late husband had also filed an affidavit in support of the deed. Therefore, I do not find any merit in this OA and accordingly dismiss the same without any order as to costs.

Shanta 95
(SMT. SHANTA SHASTRY)
MEMBER (A)

Gaja