

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:650/2000

DATE OF DECISION: 22.1.2001.

Smt. Mallamma Damodar Narasappa Applicant.

Shri K.B. Talreja Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri R.R. Shetty Advocate for
Respondents

CORAM

Hon'ble Ms. 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 Shastry
(Shanta Shastry)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:650/2000

MONDAY the 22nd day of JANUARY 2001.

CORAM: Hon'ble Ms. Shanta Shastry, Member (A)

Smt. Mallamma Damodar Narasappa
R/o Old Balaji Nagar,
Gaondevi Road,
Ambarnath, Dist. Thane.

...Applicant.

By Advocate Shri K.B. Talreja.

V/s

1. The Union of India through
The General Manager,
Central Railway, Mumbai CST.
2. The Divisional Railway Manager,
Central Railway, Mumbai CST.

By Advocate Shri R.R. Shetty.

3. Smt. Venkatamma Damodar Narasappa
Jayawant Bhagat Chawl,
Diwa (W), Near Railway Station,
Diwa.

...Respondents

ORDER (ORAL)

{Per Ms. Shanta Shastry, Member(A)}

By this OA the applicant has prayed to release the family pension and other retirement benefits of her late husband as per rules with interest at the rate of 18% on the delayed payment of pension and other retirement benefits, three months after the death of her husband till actual payment is made to her.

2. The applicant's husband was working as Carpenter in Central Railway at Mumbai CST. According to the applicant she is having three children out of the wedlock, namely, Venkatesh and two daughters Kum. Kamala and Laxmi. There appears to be another wife Smt. Venkatamma i.e. Respondent No.3 who was having illicit

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late
relations with the ^{late} employee. The deceased employee was a permanent employee and had completed more than 30 years of service and was drawing basic pay of Rs. 4500/-. He expired on 24.4.1999. The applicant is aggrieved that till now she has not been paid any pension though she is entitled to the same. The reason is that respondent No.3 has also claimed a share in the pension vide her letter dated 12.7.1999 stating that she is the widow of late Damodar Narsappa and she has one daughter Kum. Kalpana.

3. The respondents have contested the claim on the ground that they have no record to show that respondent No.3 was weded to the deceased employee. He had neither informed nor taken permission for the second marriage. In the absence of this record respondent ^{No.3} must produce a succession certificate before the claim for pension could be considered. The respondents have doubt about the claim of respondent No.3.

4. The learned counsel for the applicant has produced an affidavit filed by both the applicant as well as respondent No.3. In this affidavit both have agreed to share the pension in the ratio 50 : 50 as well as provident fund, gratuity and insurance amongst themselves and other three daughters. Photographs are also attached to the OA. The respondent No.3 has also filed an affidavit separately on 18.1.2000 stating that she has no objection for sharing the pension in the ratio 50 : 50 and if the job is given to the son of first wife.

5. The learned counsel for the respondents has also produced a copy of the nomination form for Provident Fund, GIS, DCRG which shows that name of the first wife i.e. applicant, her son Master Venkatesh and two daughters in addition to Kum. Kalpana. There is no mention that Kum. Kalpana is the daughter of second wife. Similarly a record of privilege passes and PTO's has been produced by the respondents showing the names of his first wife, children, mother and sister of the deceased. This document also does not contain the name of second wife nor Kum. Kalpana is the daughter of second wife. ^{shown as}

6. The learned counsel for the respondents therefore contends that in the absence of mention of respondent No.3 as the second wife anywhere in the form, the respondents are enable to pay any pension at this stage in the absence of succession certificate.

7. I have heard both counsel for the applicant as well as for respondents. I find that there is no dispute whatsoever about applicant being ^{the} first wife. The dispute is only about the second wife. I find no reason as to why applicant No.1 should be denied the pension at this stage ^{by} _{without} insisting on the succession certificate. In my considered view applicant is entitled to pensionary benefits and deserves to be paid pension at least provisional pension, pending the ^{decision on the dispute} _{case}. The respondents therefore ^{are} directed to release the provisional pension to applicant No.1 immediately within one month from the date of receipt of a copy of this order. As far as the respondent No.3 is

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concerned she will have to submit the succession certificate, if she has to claim any share in the pension until then no orders can be passed regarding grant of any share in the pensionary benefits to respondent No3. AT this stage no interest is payable. The OA is disposed of accordingly. No costs.

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(Ms. Shanta Shastray)
Member(A)

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