

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION No.: 111/2001.

Dated this the 17th day of December, 2002.

Smt. Supabai w/o. Lukudu Bhi

Applicant.

Shri K.R. Yelwe

Advocate.


VERSUS

Divisional Railway Manager

Respondent.

Coram : Hon'ble Shri S.L. Jain, Member (J).

- (i) To be referred to the Reporter or not ? yes
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? no
- (iii) Library. yes


(S.L. Jain)
Member (J)

H.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.111/2001.

Dated, this , the 17th Day of December, 02

Coram : Hon'ble Shri S.L. Jain, Member (J).

Smt.Supabai w/o Lukudu Bhil,
R/o. Gadkhamb, Tal.Amalner,
Dist. Jalgaon (Maharashtra). .. Applicant.

(By Advocate Shri K.R. Yelwe).

Versus

Divisional Railway Manager,
Western Railway, Bombay Central,
Mumbai - 400 008. .. Respondent.

(By Advocate Shri R.R. Shetty).

ORDER

{ Per : Hon'ble Shri S.L. Jain, Member (J) }.

This is an application under Section 19 of the Administrative Tribunal Act, 1985 seeking the relief for grant of gratuity, provident fund and ex-gratia payment.

2. The applicant claims the said relief on the basis of an order passed by Civil Judge, Sr. Division, Amalner, District Jalgaon in M.A.No.7/96 dated 18.1.1997.

3. The respondents have stated that initially when the applicant approached the respondents, cleared her papers and even issued the Pension Payment Order in her favour for grant of ex-gratia payment. However, it was later on realised that one Smt.Reshmabai who had approached the respondents as the wife of Lukudu Lalsingh Bhil had been granted ex-gratia payment with effect from

P.L. Jain

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1.1.1986. It was then noticed that Smt.Supabai whose Pension Payment Order has been cleared for the ex-gratia happenend to be the second wife of the deceased employee. Accordingly, the respondents have directed both the alleged wives to produce a Succession Certificate.

4. The further averment of the respondents is that a succession certificate was produced by Smt.Reshmabai without making Smt.Smt.Supabai as party respondent. Thereafter, Smt.Supabai approached the Court by making Smt.Reshmabai a party respondent and the Court held that Smt.Supabai was a legally wedded wife of the deceased employee. The Divisional Railway Manager vide its order dated 18.5.1999 stated that a second wife cannot claim ex-gratia payment. Further defence is that the said order in favour of Smt.Reshmabai could not have been cancelled or set aside. Smt.Reshmabai, the first wife has expired on 29.1.1998. However, the death of the first wife does not make the marriage of Smt.Supabai legal. Lukudu Lalshingh Bhil expired on 26.3.1978.

5. The respondents have no jurisdiction to question the order passed in M.A.No.7/96 decided on 18.1.1997. The order dated 18.1.1997 passed by the competent Court is not challenged by the respondents failing which they

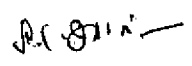
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are not competent to challenge the same in the present O.A.

6. On perusal of the instructions on ex-gratia payment, it is clear that the word used is "Widows" and not the "Widow". The applicant is the widow of late Lukudu Lalsingh Bhil. As such defence raised by the respondents is of no substance and deserves to be ignored. The said succession certificate was asked for only in respect of ex-gratia payment.

7. In the result O.A. is allowed. Order dated 18.5.1999 passed by Divisional Railway Manager, Western Railway, Mumbai denying the ex-gratia payment to the applicant is quashed and set aside. The applicant be paid ex-gratia as per her eligibility with effect from 1.2.1997 when her right is crystylised and thereafter shall continue to pay till she is eligible therefor with cost amounting to Rs.1,000/- (Rupees One Thousand only) within 3 months from the date of receipt of a copy of this order.


(S.L. Jain)

Member (J).

H.

12/12/02
Order/Judgement despatched
to Applicant/Respondent (s)
on 21/02

