

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 331/91

Transfer Application No. xxxxxx

Date of decision 25 June 92.

Nilima Ramchandra Shete Petitioner

Mr. M. S. Ramamurthy Advocate for the Petitioner

Versus

U.O.I. & Ors.

Respondent

Mr. J. G. Savant

Advocate for the Respondent(s)

Coram :

The Hon'ble Shri A.B.Gorthi, Member(A)

The Hon'ble Shri V.D.Deshmukh, Member(J)

1. Whether the Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

} No.

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(V.D. DESHMUKH)
M(J)

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.331/91

Nilima Ramchandra Shete,
widow of Late Ramchandra
Krishna Shete, residing at
Sarjarao Vithal Chawl,
Mumbra, Dist. Thane. .. Applicant

-versus-

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.
2. Chief Workshop Manager,
Parel Workshop,
Central Railway,
Parel,
Bombay - 400 012. .. Respondents

Coram: Hon'ble Shri A.B.Gorthi,
Member(A)

Hon'ble Shri V.D.Deshmukh,
Member(J)

Appearances:

1. Mr.M.S.Ramamurthy
Advocate for the
Applicant.
2. Mr.J.G.Savant
Counsel for the
Respondents.

JUDGMENT: Date: 25 June 93,
(Per V.D.Deshmukh, Member(J))

The present application is filed by the applicant Nilima Ramchandra Shete who claims to be the widow of late Ramchandra Krishna Shete who ~~was~~ in service of the Central Railway. It is not in dispute that Ramchandra Shete took voluntary retirement and he was also receiving pension. He expired on 28-8-88.

2. The applicant filed an application for family pension which was rejected by the impugned communication dt. 23-2-1990. The reason for which her claim for family pension was rejected was that she was not a legally wedded wife of R.K.Shete as the first wife of R.K.Shete was alive at the time of her alleged marriage with R.K.Shete. The applicant claims that R.K.Shete married the applicant in 1968. She also claims that when she married Shri R.K.Shete he informed her that his first wife had expired. Thus according to the information allegedly given by Shri R.K.Shete to the applicant the first wife of Shri R.K.Shete had expired in 1968 or even before that.

3. After the application ~~filed~~ for pension was filed, by communication dt. 9-8-89 the respondents requested the applicant to furnish certain particulars and documents. The communication which is at Ex. 'C' to the application shows that she was asked to furnish the original death certificate of Shri Ramchandra Krishna Shete, ~~Shri~~ ^{Ex} first wife Smt. Laxmibai in duplicate. The applicant herself produced the certificate. Surprisingly this certificate ~~certificate~~ shows that Smt. Laxmibai the first wife of Shri R.K.Shete expired on 29-11-1978 which clearly meant that she was alive at the time of marriage of the applicant with Shri Shete in 1968. The validity of the applicant's marriage has to be decided in reference to the provisions of the Hindu Marriage Act, 1955 and it is beyond any doubt that her marriage was invalid as obviously it was performed while the first wife of Shri R.K.Shete was living

and the first marriage was subsisting.

4. There is nothing to show that Shri Shete had divorced his first wife. It is not even the case of the applicant that the first marriage of Shri Shete was ~~not in~~ subsisting. Her only case is that she was informed by Shri R.K.Shete that his first wife ~~had~~ expired. It was argued that it was possible ~~that~~ that the first wife of Shri R.K.Shete was not seen ~~her~~ for more ~~or heard of~~ ~~for~~ than seven years and therefore Shri Shete informed the applicant that she has expired. In the first place such is not the case of the applicant. She has only expressed this as a ~~sixty~~ possibility in her grounds and such vague pleadings cannot be investigated. When the applicant applied for pension and claimed that she is the legally wedded wife of Shri R.K.Shete the burden was on her to show that ~~she was~~ ~~wedded wife~~ ~~she is~~ the legally ~~widow~~ of Shri R.K.Shete.

5. It was also argued that about 20 years the respondents treated the applicant as the legally wedded wife of Shri Shete by giving her complimentary passes and other facilities. We are unable to appreciate as to how this would in any manner alter the position as to the legal validity of her marriage with Shri R.K.Shete. The conduct of the respondents can neither render the marriage valid nor can it act as/estoppel.

6. The respondents have also pointed out that although the applicant claims that she was married to Shri R.K.Shete in 1968 her name appears in the ration card for the first

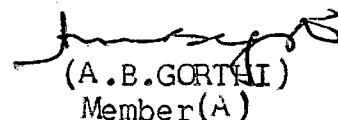
time in August, 1983. The respondents have also pointed out that Shri Shete has nominated his mother Smt. Shewantibai as his nominee in respect of ordinary gratuity/DCRG and when he filed his specimen signature ~~he himself~~ ^{himself} described as widower. It was strenuously argued by Mr. M. S. Ramamurthy, the learned counsel for the applicant that in ~~this~~ ^{the} circumstance enquiry should be held as to whether the first wife of Shri Shete was alive in 1968 and whether the marriage was ~~in~~ ^{ing} subsistence. In view of the death certificate ~~produced~~ ^{produced} by Smt. Laxmibai the first wife of R. K. Shete, ~~by~~ the applicant herself we do not find that any purpose would be served by directing any such enquiry. We may again mention that the burden to prove the validity of the marriage lies on the applicant and there is absolutely nothing to support her case.

7. Our attention was also invited to the provisions of Section 494 and 108 of IPC. However, as there is no question of any prosecution on account of begamy those provisions are not at all relevant.

8. In the circumstances, the application is dismissed with no order as to costs.


V.D. Deshmukh

(V.D. DESHMUKH)
Member (J)


(A.B. GORTHAI)
Member (A)