

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 560/91

199

T.A. NO:

DATE OF DECISION 2.11.92

SMT. SUDHA VASANT BHIDE

Petitioner

Shri A.G. Abhyankar

Advocate for the Petitioners

Versus

The General Manager,

Respondent

C.R. Bombay, V.T.

SHRI J.G. SAWANT

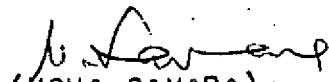
Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~MX~~ USHA SAVARA, MEMBER (A)

The Hon'ble Mr.

1. Whether 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 ?
-) 1/a


(USHA SAVARA)
M/A

mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

6

ORIGINAL APPLICATION NO: 4560/91

Smt. Sudha Vasant Bhide,
Residing at 4/181, Rajendranagar,
PMC colony, Pune - 411030.
(W/o deceased railway employee
Shri Vasant Narayan Bhide)

.... Applicant

V/s

1. The General Manager,
Central Railway,
Bombay, V.T.
2. Chief Workshop Manager,
Central Railway, Parel,
Bombay - 400002

.... Respondents

CORAM : HON'BLE USHA SAVARA, MEMBER (A)

Appearance :

Mr. A.G. Abhyankar, for the
applicant.

Mr. J.G. Sawant, Adv.
for the respondents.

JUDGEMENT

DATED: 2.11.92.

(PER : USHA SAVARA, M/A)

This application has been filed against letter
No. E7/12609/Pen.V/ dated 7.9.1990 from respondent No.2
rejecting the applicant's claim for family pension.

It is the applicant's claim that she is the widow of
late Vasant Narayan Bhide, who was a railway employee, and
who expired on 10.5.1988, and therefore she is entitled
to family pension.

The respondents' counsel vehemently contested
the application. It was stated by Shri J.G. Sawant that
the applicant was married to the deceased employee on
14.10.1975, but he divorced his wife Rajani only on 30.4.77
as per affidavit filed by him in the 4th Jt. Civil Judge
J.D. Pune, Court Pune, Therefore, the marriage which took

by

2

place before the divorce, cannot be accepted as valid. It was also submitted that Shri Bhide had nominated his unmarried daughter, Miss Sadhna as his sole family member, after his divorce on 30.4.1977. The deceased filed an affidavit dated 7.12.1987 in the presence of Executive Magistrate, Karjat stating that his Provident Fund and Pension must be paid only to his daughter, Miss Sadhana as he had divorced his wife Smt. Rajni on 30.4.1977, and ~~she had no right in~~ to claim anything (Ex. A-8). The deceased employee had not mentioned anything about having a second wife in his nomination. The respondents advised the applicant to produce a succession certificate from a competent Court to establish her status. The certificate has been produced by the applicant (Ex. A 9), but there ~~after~~ after the respondents resisted the applicant's claim on the ground that she had not got a declaration from the Court that she was the legally wedded wife of the deceased employee. Since she had married Vasant Bhide prior to the divorce, therefore her marriage was not valid and she was not entitled to receive family pension.

3. I have heard both the opposing Counsel and perused the annexures. There is no disputing the fact, that when the applicant married Late Vasant Bhide, he had not yet obtained divorce from his first wife. The divorce was only finalized on 30.4.1977. However, there is no gainsaying the fact that the applicant and late Vasant Bhide had approached the Registrar of Marriages on 12.10.1977 and duly registered the marriage, which had taken place on 14.10.1975. The marriage came legally into existence only from 12.10.1977 i.e. the date on which it was registered with the Registrar of Marriages. As on that day, Vasant Bhide stood divorced from his first wife, and was legally married to the applicant. On the respondents' advice,

9

the applicant has also procured a succession certificate as desired by them. So far as the nomination by the deceased employee is concerned, it is seen that pension and Provident Fund have to be given to the widow minor/unmarried children of the deceased, and nobody else can be nominated to receive the same. It cannot even be bequeathed by will, as it does not form part of estate of the employee (Smt. Violet Issac V/s Union of India and ors (1991) 16%. Since there are no minor children, the applicant is entitled to receive the family pension, notwithstanding the nomination executed by the deceased.

4. In the circumstances, I hold that the application must succeed, The letter dated 7.9.1990 is quashed and the respondents are directed to pay to the applicant all the arrears of pension from 10.5.1988 onwards. She is also entitled to receive the family pension being the legal widow of late Vasant Bhide. However, looking to the peculiar facts of this case, there is no order regarding interest. There is no order as to costs. The Original application is disposed of accordingly.

Usha Savara
2.11.92
(USHA SAVARA)
M/A

srl.