

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY-1

OA No. 766/93

Smt. Kalabai Gorakh Sonawane
V/s.

.... Applicant

Union of India & Ors.

.... Respondents

Coram : Hon'ble Shri Justice M.S. Deshpande, V.C.

APPEARANCE :

Mr. N.M. Mithani
Counsel for the Applicant

Mr. V.S. Masurkar
Counsel for the Respondents

ORAL JUDGMENT :

DATED : 16.2.1994

(Per : M. S. Deshpande, Vice Chairman)

One Gorakh Daji Sonawane expired on 3.5.1992 leaving behind him his wife Rajanibai and a daughter Vidya born on 16.8.1958. The present applicant, Smt. Kalabai Gorakh Sonawane, contends that since the whereabouts of the said Rajanibai were not known for 32 years ^{respondents} the insisted upon production of a divorce certificate in respect of the first wife though after Gorakh Sonawane married the applicant, he made a nomination in favour of the applicant in respect of Provident Fund, DCRG and Insurance in the year 1964. On the strength of that nomination the applicant claimed to be entitled to the terminal benefits of Gorakh Daji Sonawane. Having failed to get a favourable reply she has failed this application for those terminal benefits.

2. According to the respondents by letter dated 7.6.1983 supported by an affidavit dated 1.6.1983 Gorakh Daji Sonawane had informed the respondents that Rajani Gorakh Sonawane (along with their minor daughter) had deserted him in the year 1958 and had refused to return

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and had been staying separately for nearly 22 years. After the lapse of seven years he married the present applicant and requested the respondents for leave to nominate and applicant in respect of his Provident Fund and other retiral benefits. The respondents had asked the applicant by letter dated 31.7.1992 to furnish documentary evidence of her marriage to Gorakh Daji Sonawane, the decree of divorce between Gorakh Daji Sonawane and Rajani and a succession certificate. These were not furnished. It was also urged that the applicant's claim that she married Gorakh Daji Sonawane in 1964 was contrary to Gorakh Daji Sonawane's own statement that he had married the applicant 7 years after the date of desertation.

3. It is apparent that there is no controversy about the fact that the applicant married Gorakh Daji Sonawane during the life time of Rajani and the marriage of the applicant with Gorakh Daji Sonawane could not have been valid and legal unless the applicant showed that Rajni was either dead before the marriage or a decree of divorce has been obtained either by Rajni or by Gorakh Daji Sonawane.

4. Rule 53 of the CCS Pension Rules provides that a Government servant shall, on his initial confirmation in a service or post, make a nomination in Form 1 or 2, as may be, as appropriate in the circumstances of the case, conferring on one or more persons the right to receive the retirement gratuity/ death gratuity payable under Rule 50. The proviso,

however, says that if at the time of making the nomination :-

- i) the Government servant has a family; the nomination shall not be in favour of any person or persons other than the members of his family; or
- ii) the Government servant has no family, the nomination may be made in favour of a person or persons, or a body of individuals, whether incorporated or not.

5. It is apparent that in the present case the applicant cannot be a member of the family of G. D. Sonawane unless she gave proof either that Rajni had died, a fact which even the applicant does not plead, or that there was a decree of divorce, which again has not been alleged by the present applicant in the application. The respondents are therefore justified in not granting the retiral benefits to the applicant.

6. If the applicant has any grievence she will have to establish her claim for the retiral benefits by resorting to appropriate proceedings to which Rajni and Vidya shall have to be made parties. The application as it stands would not enable the applicant to get any relief before this Tribunal. The application is, therefore, dismissed. No order as to costs.

M. S. Deshpande
(M. S. Deshpande)
Vice Chairman