

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1207/94.

Date of Decision : 02.12.1998.

Rajaram Ramlal, Petitioner.

Shri G. S. Walia, Advocate for the Petitioner.

VERSUS

Union Of India & 2 Others, Respondents.

Shri V.S. Masurkar for Respondent No. 1 and 2. Advocate for the Respondents.

CORAM :

Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

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

R. G. Vaidyanatha

(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1207/94.

Date of Decision : December 02, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Rajaram Ramlal,
Khalasi/Helper,
(OHE) Traction,
Electrical Department,
Bombay Division,
Bombay Central,
Bombay - 400 008.

... Applicant

(By Advocate Shri G.S. Walia)

VERSUS

1. Union Of India through
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

... Official
Respondents.

2. The Divisional Rly. Manager,
Bombay Division,
Western Railway,
Bombay Central,
Bombay - 400 008.

... Private
Respondent.

3. Smt. Kamala,
C/o. Shri N.K. Srinivasan,
Advocate for Respondent No.3

(By Advocate Shri V.S. Masurkar
for Official Respondents.)

: OPEN COURT ORDER :

PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN

This is an application filed by the applicant seeking payment of provident fund and other retirement benefits which was due to his father. Respondent No. 1 and 2


...2

are the official respondents who have filed reply opposing the application. The third respondent is a rival claimant, who was impleaded on her application and she has also filed a reply opposing the application. We have heard the Learned Counsels appearing on both sides.

2. The few facts which are necessary for the disposal of this application are as follows :-

One Shri Ramlal was a railway employee who died on 16.08.1993. The applicant is the son of the deceased Ramlal. The applicant's case is that, he is entitled to get provident fund, D.C.R.G., Leave salary and other retirement benefits that were due to his father. The applicant also says that his father had given him nomination so far as the provident fund is concerned. The applicant's mother died about fifteen years back. According to the applicant, there is no other legal heir to his father except himself. He has, therefore, approached this Tribunal praying for a direction to the official respondents to pay him the provident fund and other retirement benefits that were due to his father.

The third respondent, Smt. Kamala, claims to be the second wife of the deceased Ramlal and she says that she has married him after the death of the first wife. She also claims that her husband, Ramlal, had nominated her for the provident fund and she has already drawn that amount. She has disputed the claim of the applicant that he is the sole legal heir to claim all the retirement benefits of his father.

The official respondents have also taken the stand that they have paid the provident fund amount to the third respondent on the basis of the nomination for the provident fund. They have not paid the other retirement benefits since there is dispute between the two rival claimants, namely - the applicant and the third respondent. It is also stated that in view of the dispute between the rival claimants, this Tribunal has no jurisdiction to grant any relief.

3. The Learned Counsel for the applicant contended that the third respondent is not the wife of Ramlal and therefore, not entitled to any of the retirement benefits due to his father. He further contended that some of the documents relied on by the third respondents and on the basis of which Respondent Nos. 1 and 2 paid her the provident fund amount, are ^{gvt} fraudulent and brought up documents. He also prayed that an enquiry may be ordered to find out the truthfulness and genuineness or otherwise, of the disputed documents. The Learned Counsel for the respondents contended that the claim is not maintainable in view of the serious dispute between the rival claimants and it is for the parties to approach the competent Civil Court to get a declaration about their rights. The Learned Counsel for the third respondents also adopted the argument of the counsel for the official respondents.

4. As seen from the pleadings and arguments, there is serious dispute between the parties about the status of the third respondent. The dispute is,

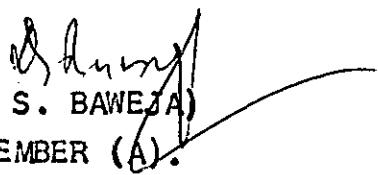
whether the third respondent is the legally wedded wife of deceased Ramlal or not. This is a matter which cannot be decided by this Tribunal. That is a matter which has to be decided by a competent Civil Court. Therefore, this Tribunal cannot go into the question of deciding the status of the third respondent vis-a-vis the deceased Ramlal. As far as the gratuity and other retirement benefits are concerned, no payments can be made either to the applicant or to the third respondent, in the absence of nomination, unless either party approaches the Civil Court and gets a declaration in his or her favour.

5. As far as the claim for the provident fund amount is concerned, the amount is already paid to the third respondent. Now the applicant cannot have any claim over the Respondent Nos. 1 and 2, since they have already paid the amount to the third respondent presumably on the second nomination form. The applicant's counsel is seriously questioning the genuineness of the second nomination form in the name of the third respondent. Though the Learned Counsel for the applicant pressed many points in support of his argument, we cannot go into that question in the present proceedings. Whether the document is a forged document or not, genuine document or not, cannot be considered by this Tribunal in the absence of evidence adduced by the party. This Tribunal cannot enter into a detailed discussions on a matter like this. If a crime is committed like forgery or fraudulent document, then the Criminal Court has to investigate it. If it is the mere right of the applicant or the third respondent to claim the provident fund amount, then

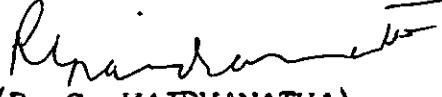
they will have to approach a Civil Court. Therefore, in the facts and circumstances of the case, we are not inclined to go into the question about the genuineness or otherwise, of the nomination of the provident fund amount.

6. If the applicant is aggrieved by the payment of provident fund amount to the third respondent on the basis of the impugned nomination in her favour and if it is ^{hj} a case that it is a forged or ^{govt} brought up document, the applicant can file a complaint with the police or he can approach the Civil Court for necessary relief. Since the applicant says that the whole thing has taken place in the office of the administration, we give liberty to the applicant to make a formal complaint to the Chief Personnel Officer making all necessary allegations and he can furnish whatever evidence available with him within a period of four weeks from the date of receipt of this order. The Chief Personnel Officer may make a informal or preliminary enquiry and if he is satisfied that any prima-facie case is made out, he may lodge a complaint with the police. If the Chief Personnel Officer does not lodge~~s~~ a complaint, then the applicant himself can lodge a complaint with the police or any other appropriate authority. As far as other question about the status of the third respondent is concerned, it is open either to the applicant or to the respondent No.3, to approach the Civil Court and obtain a declaration in ~~that~~ their behalf.

7. In the result, the application is disposed of subject to the observations made in para 6 above. We further direct that for a period of three months from the date of receipt of this order, no payment shall be made by the official respondents either to the applicant or third respondent regarding the retirement benefits of Ramlal. No order as to costs.


(D. S. BAWEJA)

MEMBER (A).


(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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