

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 427/95 / 1999

Date of Decision: 31-07-96

1. Kum. Prajaktā Sudhakar Saykhedkar

2. Smt. Smita Sudhakar Saykhedkar

Petitioner/s

Mr. M. V. Chandhade

Advocate for the
Petitioner/s

V/s.

U.O.I. & Crs.

Respondent/s

Mr. R. N. Shetty.

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M. R. Kolhatkar, Member(A)

Hon'ble Shri

- (1) To be referred to the Reporter or not? *Yes*
- (2) Whether it needs to be circulated to X
other Benches of the Tribunal?

M. R. Kolhatkar

(M. R. KOLHATKAR)
Member(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.427/95

Pronounced this, the 31st day of July 1996

CORAM: HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

1. Kum.Prajakta Sudhakar Saykhedkar

2. Smt.Smita Sudhakar Saykhedkar,
Block No.3, Yashwant Co.op.Hsg.Scty.,
Datta Nagar, Dombivli (E),
Dist.Thane.

(By Advocate Shri M.V.Chindhade) .. Applicant

-versus-

1. Union of India,
through
General Manager,
Central Railway,
Mumbai CST.

2. Divisional Railway Manager,
DRM's office, Annexe Building,
Central Railway,
Mumbai CST.

(By counsel Shri R.R.Shetty) .. Respondents

ORDER

(Per M.R.Kolhatkar, Member(A))

This is a joint application by the alleged successor of a deceased railway employee for grant of family pension in favour of applicant No.2, Smt.Smita S.Saykhedkar, applicant No.1 being allegedly the minor daughter. The railway employee Shri S.R. Saykhedkar was working as Clerk under DRM Central Railway, Bombay V.T. and retired on superannuation on 31-7-1987 and was drawing monthly pension of Rs.562/- + D.A. relief from 1-8-1987. He expired at Bombay on 12-6-1990. The Bank of Maharashtra paid to the applicants life time arrears of pension after the death as per Bank's letter dt.10-4-92. The Bank did not start to pay the family pension after the death of the deceased from 13-6-90 as there were no particulars of the family on the Pension Payment Order.


The applicant No.2 entered into correspondence with respondent General Manager, Central Railway for payment of Family Pension to her by adducing evidence of marriage and claiming family pension. The same was turned down by the Central Railway by letter dt. 3-2-94. The same is reproduced below :

"In connection with your claims to receive family pension of Shri S.R.Saykhedkar, it is stated that your claim is not tenable for the following reasons:

Your marriage with Shri S.R.Saykhedkar has been registered on 4-9-92 i.e. after his death. Signature on the pension application of the employee does not tally with the signature on the memorandum of marriage.

The marriage certificate and your statement in the affidavit, indicate that the marriage took place on 10th June, 1983. The birth certificate of Kum.Prajakta shows that she was born on 31-12-83. This means that the daughter was born within 6 months from the date of marriage. If it is so, then it cannot be said that the daughter was born out of this wedlock.

Shri Saykhedkar has submitted a statement on 20-4-87 stating that his wife had deserted him for the last 20 years and divorce case No.294/84 is still pending in the Civil Court of Thane, therefore question of filling up Family pension particulars does not arise. It is therefore clear that Shri Saykhedkar was not stated about his alleged marriage with you."

The contention of applicant No.2 is that applicant is the legally wedded wife of the deceased railway employee as per the marriage certificate issued by the Registrar of Marriage. Regarding the date of certificate being 4-9-92 i.e. after the death of the husband, the applicant contends that the memorandum was signed by both the spouses immediately after the marriage viz. 10-6-83 but it took time to be processed and the actual certificate was issued on 4-9-92. She also produced  certificate

from a priest regarding having solemnised the marriage. There is also a character certificate of minor daughter issued by the school showing her father's name as Sudhakar Saykhedkar. Regarding the daughter having been born within six months of the marriage, it is contended that, that fact does not ~~controvert~~ ^{the} fact of marriage but it only shows that the applicant No.2 had marital relations with the deceased employee prior to the date of marriage. Applicant has also produced a certificate from the Co-operative Housing Society stating that the flat is in the name of ~~Ms.~~ Usha Kundalkar that being the name of applicant No.2 before the marriage and that the marriage certificate produced before the authority of Society shows that she is to be known as Smt.Smita Sudhakar Saikhedkar. The applicant has also produced a copy of the first page of the joint Savings Bank account maintained in the joint name of Shri Sudhakar and Smt.Smita. The applicant has also produced a photograph of applicant No.2 along with the deceased railway employee.

2. On 18-1-96 the counsel for the applicant had sought time to produce succession certificate and the same was granted and on the date of hearing succession certificate in the name of applicant No.2 dt. 6-7-96 ^{as} issued by the Joint Civil Judge, S.D. Thane was produced. The applicant therefore has sought relief of quashing the impugned order dt. 3-2-94 and a declaration that applicant No.2 is the natural ~~guardian~~ guardian of applicant No.1 being entitled to receive family pension and directing ~~the~~ Central Railway to grant family pension in favour of the applicants along with arrears and further consequential beliefs.

3. Respondents have opposed the O.A. According to them the reasons for rejecting the application have already given

in the impugned letter. The essential factor in rejecting the application for family pension is that the deceased employee has stated that he did not have a family, and that a suit for divorce against his wife is pending in the civil court at Thane. He neither supplied a joint photograph of himself with his wife nor did he apply for family pension. The counsel for the respondents argued at the time of hearing that C.A.T. has no jurisdiction to make a declaration regarding applicant No.2 being the legally wedded wife of the deceased employee and therefore the CAT cannot direct the respondents to make payment of family pension to applicant No.2.

4. I have considered the matter. It is true that CAT is not the proper forum to declare marital status of applicant. On that ground, however, it cannot be said that CAT has absolutely no jurisdiction in adjudicating matters in which such issues arise. If an applicant is able to show nexus with the deceased employee by means of official documents, this Tribunal may not hesitate to grant relief. Thus in O.A. 1142/94 decided on 30-5-96 in the case of Smt. Shanta Pandurang Bhalerao vs. U.O.I., the issue ^{was} whether the applicant was entitled to claim arrears of PF when the respondents had already released the pension and other pensionary benefits to respondent No.4 who according to record was the legally wedded wife. This Tribunal held that the applicant was able to show nexus by means of official documents viz. there was nomination in favour of the applicant in regard to PF and it was also seen that the deceased Govt. servant was staying along with the applicant in a Govt. quarter and the applicant had received notice for eviction of the quarter. The Tribunal held that since no other nomination in respect of PF was produced before the Tribunal the applicant was entitled to receive the

accumulated amount in the PF. Claim of the applicant for other benefits like pension etc. was rejected and partial relief was granted.

5. In the instant case, the facts are different. There are no rival claims for the pensionary benefits but there is a claimant for the pensionary benefits who set up her claim two years after the death of the husband and the documents in possession of the department do not show anything regarding her status as the wife of the deceased employee nor ^{is} the applicant able to show any official documents like the PPO, PF slip etc. which shows a nexus between the applicant and the deceased railway employee in any official documents. The mere fact that the applicant has produced succession certificate during the course of hearing cannot bear out her claim to be granted of family pension. It may be that the applicant has a remedy but that remedy is not before the CAT. The remedy may be before a civil court of ^{competent} jurisdiction which can give a declaration as to the status of the applicant as a legally wedded wife of the deceased railway employee. It is for that court to go through the various documents produced by the applicant, take additional evidence and to arrive at a finding. If the finding is in favour of the applicant then the applicant may set up her claim before the departmental authorities by producing the order but so far as this Tribunal is concerned since the deceased railway employee did not give ^a joint photograph of the family along with applicant No.2 nor has the applicant No.2 been able to produce any official documents like PPO, PF etc. showing her nexus with deceased employee it cannot grant any relief.

6. The O.A. is therefore without any merit and is dismissed with no order as to costs.

M/R Kolhatkar

(M.R. KOLHATKAR)
Member (A)