

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 492/97

Date of Decision: 18.6.1998

Smt. Ganpati Ammal,

.. Applicant

Shri K.B. Talreja

.. Advocate for  
Applicant

-versus-

Union of India & Anr.

.. Respondent(s)

Shri A.I. Bhatkar & Shri M.S. Ramamurthy Advocate for  
Respondent(s)

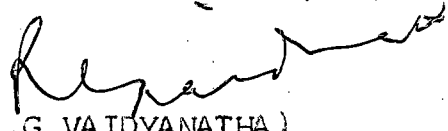
CORAM:

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

The Hon'ble

(1) Is to be referred to the Reporter or not ?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal ?

  
(R.G. VAIDYANATHA)  
VICE-CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 492/97.

Thursday, this the 18th day of June, 1998.

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

Smt. Ganpati Ammal,  
Widow of Shri Muthu Pandian,  
C/o. M. Esaki Pandi,  
Room No. 8,  
Desa Rana Chawl, Near Ganesh  
Maidan,  
Ghatkopar (West),  
Mumbai - 400 086.

... Applicant.

(By Advocate Shri K.B. Talreja)

V/s.

1. The Union of India,  
Through the Chief Workshop Manager,  
Carriage & Wagon Workshop,  
Central Railway, Matunga Workshops,  
Mumbai - 400 019.

2. Smt. Ranjeeta,  
C/o. Shri Govind Vasudev Pillai,  
Sampakal Chawl, Dattatri Nagar,  
Golibar Road,  
Ghatkopar, Behind Shankar Temple,  
Mumbai - 400 086.

... Respondents.

(By Advocate Shri A.I. Bhatkar for  
R-1 and Shri M.S. Ramamurthy for R-2).

ORDER

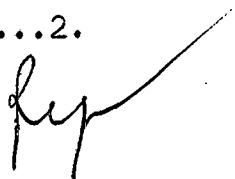
{Per Shri Justice R.G.Vaidyanatha, Vice-Chairman}

This is an application filed by the applicant claiming the retirement benefits due to her husband Muthu Pandian. The respondents have filed their reply opposing the O.A. I have heard the learned counsel appearing on both sides.

2. Few facts which are necessary for the disposal of this O.A. are as follows.

One Shri M. Muthu Pandian was working as a Khalasi in Smithy Shop at Matunga Workshop. He died on 12.8.1996. The applicant claims to be the wife of M. Muthu Pandian having married him on 20.6.1982. Her case is that

...2.



being the wife of the deceased she is entitled to all the retirement benefits. She approached the Railways for the payment of Pension and other benefits, but since it is not conceded by the Railways she has approached this Tribunal for a direction to the respondents to release Pension, DCRG and other retirement benefits due to her husband with interest and costs.

The second respondent shown as Smt.Ranjeeta in the cause title, but it is claimed that she is known as Smt.Ranjana has filed a reply asserting that she is the wife of the deceased M.Muthu Pandian and that she is entitled to all the retirement benefits and she has denied the alleged marriage between the applicant and M.Muthu Pandian. She therefore says that the applicant is not entitled to any other relief and on the other hand she alone is entitled to the retirement benefits.

The Railway Administration has filed a reply stating that there is serious disputes between the two alleged claimants who claim to be the wife of the deceased and this Tribunal cannot decide this disputed question and therefore it is prayed that the parties may be directed to approach Civil Court for getting a declaration about the status of marriage.

3. The learned counsel for the applicant contended that the applicant is the legally wedded wife of the deceased after the death of the first wife, therefore she is entitled to all the retirement benefits. He further asserted that the alleged second marriage of second respondent in 1994 is void and contrary to law and she will not get any right. On the other hand, the learned counsel for the respondents asserted that the applicant is not the wife of the deceased and the second respondent alone is the

wife of the deceased and she is entitled to receive all the service benefits. Shri A.I.Bhatkar, the learned counsel appearing for the Railway Administration pointed out that there is serious dispute between the parties regarding marriage and submitted that it is a matter that has to be decided by a Civil Court.

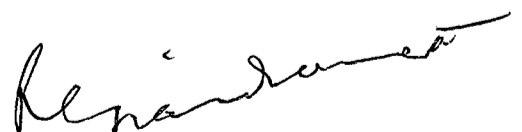
The applicant has not produced any document to show that she was married to M.Muthu Pandian. The only piece of evidence relied on by the applicant is the affidavit of Mr.Essaki Pandi, younger brother of the applicant's late husband M.Muthu Pandian to say that the applicant was married to his brother and this affidavit has been prepared for the purpose deciding the facts of the case filed by the applicant as stated in the affidavit itself. It was not filed along with the O.A. and did not come on record as Exhibit, but it <sup>blew</sup>is only at the stage of filing of Rejoinder. We cannot decide a serious dispute regarding the status of marriage on a solitary affidavit of one of the relatives of the deceased. Therefore, we find that except this solitary affidavit, there is no other document to show that the applicant is the wife of the deceased or she was married to him at any particular point of time.

4. As against this, the second respondent has filed the marriage certificate to show that there was a Registered Marriage between herself and M.Muthu Pandian on 2.6.1994. No doubt this document prima facie show that R-2 was married to M.Muthu Pandian in 1994. Further M.Muthu Pandian in his nomination form dt. 15.10.1994 has shown the second respondent Smt.Ranjana as his wife. He has shown that 50% of the amount mentioned therein should go to his wife Smt.Ranjana M.Muthu Pandian and 25% each

to two of his daughters.

But the learned counsel for the applicant contended that this alleged marriage of the second respondent is illegal and void being second marriage during the life time of his wife viz. the applicant. I have already pointed out that there is serious dispute between the parties regarding rival claims of the applicant and the second respondent. Such a dispute cannot be entertained by this Tribunal. Since there is serious dispute between the parties regarding the question of marriage, the parties shall approach the Civil Court for proper declaration about the status of wife of the deceased. It has also come on record that the deceased had his first wife earlier and she had died. Now the applicant claims to be the second wife of the deceased and similarly the second respondent also claims to be the second wife of the deceased. Under these circumstances, it is not possible to uphold the claim of the applicant that she is the legally wedded wife of the deceased and entitled to the service benefits.

5. In the result, the O.A. is dismissed, but without prejudice to the rights of the applicant or the second respondent to approach competent Civil Court for proper declaration about the status of their marriage and other consequential reliefs. All contentions regarding marriage, status etc. are left open. M.P. 709/97 is disposed of as not pressed on the submissions made by the learned counsel for the applicant. In the circumstances of the case, there will be no order as to costs.

  
(R.G. VAIDYANATHA)  
VICE-CHAIRMAN

B.