IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 663/97 and 918/97

Date of Decision: 6.1.1999

smt. Vasanta Alias Mariamma ..... Applicant.

Shri K.B. Talreja. ..... Advocate for Applicant.

Versus

Union of India and others. ..... Respondent(s)

Shri V.S.Masurkar for Respondent No.1 and 2
Shri S.S.Karkera for respondent No.3 ..... Advocate for Respondent(s)

CORAM:

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

Hon'ble Shri.

(1) To be referred to the Reporter or not? No

(2) Whether it needs to be circulated to other Benches of the Tribunal? No

(R.G. Vaidyanatha)
Vice Chairman

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

Original Application No. 663/97 and 918/97.

Wednesday the 6th day of January 1999.

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

Vasanta Alias Mariamma
C/o K.B. Talreja,
Advocate, Phulwadi,
Plot No.16, Dev Samaj Road
Ulhasnagar. ... Applicant in both the OAs.

By Advocate Shri K.B. Talreja.

V/s.

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

The Divisional Railway
Manager, Central Railway
Mumbai CST, Mumbai.

Smt. Roshi Vijaykumar Doraiswamy
Swamy Nagar, Upper Zopadpati,
Ambarnath. ... Respondents.

By Advocate Shri V.S.Masurkar for respondent No.1 and 2.

Shri S.S.Karkera for respondent No.3.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha,Vice Chairman)

These are two applications filed under Section 19 of the Administrative Tribunals Act 1985. The respondents have filed reply opposing the application. I have heard the learned counsel for both sides.

2. In O.A. 663/97, the applicant claims to be first wife of the deceased employee Shri Vijaykumar Doraiswamy who died on 27.4.1996. She has number of documents to show the reletionship between Shri Vijaykumar Doraiswamy and herself.

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In view of the death of her husband, the applicant is entitled to pension and other retirement benefits. Since respondent No.1 and 2 declined to pay the amount, she has approached this Tribunal for getting a direction to the respondents to pay her the retirement benefits of her husband. She has impleaded second wife Smt. Roshi Vijaykumar Doraiswamy as respondent No.3.

Respondent No, 1 and 2 have filed reply opposing the application. They have stated that since there are claims of two wives claiming to be wives of Shri Vijaykumar Doraiswamy, the Railway Administration could not make any payment and they have directed the parties to obtain the succession certificate from Civil Court.

Respondent No.3, Smt. Roshi Vijaykumar Doraiswamy who claims to be wife of deceased Vijaykumar Doraiswamy claims that she is entitled to the retirement benefits of her husband. She has contended that she is the wife of deceased Vijaykumar Doraiswamy.

3. In the second case namely O.A. 918/97, on the same allegations the same applicant has filed this application claiming for compassionate appointment for herself.

4. The pleadings in this application of both the applicants and the respondents are same as in O.A. 663/97.

5. The learned counsel for the applicant argued that the applicant has number of documents to show that she is the wife of Shri Vijaykumar Doraiswamy. Therefore, she is entitled to the

retirement of her husband. On the other hand the learned counsel for the respondents No.1 and 2 contended that because of the rival contention of the two applicants claiming to be the widows of the deceased, the Railway Administration could not make any payment. It is for the Civil Court to decide as to who is the real wife of the deceased, then only the Railway Administration can make payment to the applicant who produces the succession certificate from the Civil Court.

6. After hearing both the sides, I find that there is serious dispute between the parties about the status of the applicant or respondent No.3 as widow of the deceased. Both the applicant and respondent No.3 have produced some documents in support of their rival contentions. Since the relationship is in dispute this court while exercising the jurisdiction under Section 19 of the Administrative Tribunals Act cannot take up on itself the function of Civil Court to decide whether the applicant is real wife or respondent No.3 is real wife of the deceased. That is purely the function of the Civil Court. The Tribunal's jurisdiction under Section 19 of the Administrative Tribunals Act is limitted jurisdiction to entertain the application regarding service disputes. Here the dispute is not service matter but the dispute is of marital status whether the applicant or respondent No.3 is the real wife. When the marital status is proved, then there is no difficulty to hold that the wife is entitled to pensionary benefits. This Tribunal has no jurisdiction to decide as to who is the real wife of the deceased. The learned counsel for the applicant submits that he has

produced number of documents which shows that the applicant is the wife of the deceased. Respondent No.3 has questioned the genuance of these documents in the reply. In view of these disputed facts this Tribunal cannot decide the relationship. Hence without expressing any view in the matter I feel that the rival parties should be directed to approach the Civil Court and obtain the succession certificate. The Railway Administration is bound to pay the retirement benefits to the party who produces the succession certificate from the Civil Court.

7. Similarly if the applicat obtains a declaration from the Civil Court that she is the wife of the deceased, no doubt the Railway Administration will have to decide her application for compassionate appointment as per rules.

8. In the result both the O.As are disposed of with a direction to the rival parties, applicant and respondent No.3 to obtain a succession certificate from a Civil Court or a declaration about marital status with the deceased Railway employee, Shri Vijaykumar Doraiswamy. The Railway Administration is bound to consider the applicant for compassionate appointment as per rules and they are bound to pay the retirement benefits to the party who produces the succession certificate from the Civil Court. All contentions on merit are left open. This order is without prejudise to the rival contentions of the applicant and respondent No.3. In the circumstances of the case there will be no order as to costs.

(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Review Petition No. 9/99 and 10/99 in
Original Application Nos. 918/97 and 663/97.

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

Smt. Vasanta @ Mariama
Wd/o Vijaykumar Doraiswamy ... Applicant.

V/s.

Union of India and others. ... Respondents.

Tribunal's order on Review Petition on Circulation.

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

Dated: 09.3.1999.

These are two Review Petitions filed by the original applicant in O.As 918/97 and 663/97 which were disposed of by common order dated 6.1.1999 by me. I have perused the contents of the Review Petitions and also the entire case papers.

2. There is serious dispute between the applicant on the one hand and respondent No.3 on the other hand regarding their relationship with the deceased Vijaykumar Doraiswamy. Both of them claims to be the widow of the deceased Vijaykumar Doraiswamy. The applicant in both the O.As Smt. Vasanta @ Mariama filed these two applications claiming retirement benefits and also for compassionate appointment. Respondent No.3 filed her reply claiming that she is the real widow of the deceased and denied the relationship of the applicant with the deceased.

In my order dated 6.1.1999, I have mentioned that this is a serious dispute of the two rival applicants, each claiming to be the widow of the deceased. Such a disputed relationship cannot be decided by service Tribunal under Section 19 of the Administrative Tribunals Act. Therefore, I directed the parties to approach the Competant Civil Court for

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obtaining a declaration or succession certificate.

3. The applicant in the two original applications has filed the two Review Petitions. After going through the contents of the Review Petition, I do not find that any case has been made out for granting the relief. The scope of Review Petition under Order 47 Rule 1 is very limitted. If there is an error apparent on record or discovery of any new material or for sufficient reasons a Court can entertain the Review Petition. Here there is no error apparent on record has been pointed out in the two Review Petitions and there is no allegations of discovery of any new evidence after the order, except repeating the same contentions which were taken earlier and which were rejected earlier. I do not find any sufficient reason being made out for admitting the Review Petitions. I therefore, find that both the Review Petitions are not maintainable.

4. In the result both the Review Petitions are rejected by this order on circulation.

(R.G. Vaidyanatha)
Vice Chairman

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