

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 149/98

Date of Decision: 5.3.1999

Smt.Sumitra Devi

.. Applicant

Mr.J.M.Tanpure

.. Advocate for  
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Mr.Ravi Shetty for Mr.R.K.Shetty ... Advocate for  
Respondent(s)

CORAM:

The Hon'ble Shri Justice K.M.Agarwal, Chairman.

The Hon'ble

(1) To be referred to the Reporter or not ? *yes*

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

*For*

(K.M.AGARWAL)  
CHAIRMAN.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 149/98.

Friday, this the 5th day of March, 1999.

Coram: Hon'ble Shri Justice K.M. Agarwal, Chairman.

Smt. Sumitra Devi,  
Plot No.25,  
S.No.24/1,  
St.Thomas Colony,  
Mamurdi, Dehu Road,  
Pune.  
(By Advocate Mr.J.M.Tanpure) ... Applicant.

v/s.

1. Union of India, through its Secretary, Ministry of Defence, South Block, New Delhi - 110 001.
2. The Commandant, Ordnance Depot, Talegaon Dabhade, Taluka-Maval, District Pune.
3. Smt. Padmavati Vishwanathan, R.No.553/12 Indrayani Darshan, Dehu Road, Tal-Maval, Dist. Pune.  
(By Advocate Mr.Ravi Shetty for Mr.R.K.Shetty) ... Respondents.

: O R D E R :

(Per Shri Justice K.M. Agarwal, Chairman)

By this O.A., the applicant claims a declaration that she is entitled to the family pension as widow of one A.Vishwanathan and wants a direction to the second respondent to send her family pension papers to the Chief Controller of Defence Accounts (Pension), Allahabad for releasing her family pension with effect from 22.3.1995 with 18% interest.

2. Briefly stated, one A.Vishwanathan Shankarayya died on 22.3.1995 while working as a Mazdoor. The applicant claimed that she was the legally

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married wife of the deceased. Her marriage had taken place in 1975 and she had two sons of her wedlock. Accordingly, she was entitled to the family pension of her Late husband, but she was denied that pension on the ground that the third respondent was also claiming the family pension as the widow of A.Vishwanathan and, therefore, it could be paid only to the lady, who could produce a succession certificate from a competent Court. Hence, she has filed the present O.A. for the said reliefs. The claim is resisted by the respondents.

3. The learned counsel for the applicant submitted that the 3rd respondent was taken as a second wife by the husband and, therefore, by virtue of Government of India's decision at S.No.(13) below Rule 54 of the CCS (Pension) Rules, 1972, she alone is entitled to the family pension as the first wife of the deceased.

4. The Learned counsel for the official respondents submitted that the 3rd respondent had also raised her claim for the family pension of the deceased employee. It was also pointed out that on the date of his death, the deceased had sent his reply to the office letter No.5758/PC/EST-Ind dated 14.3.1995 (Exhibit R-I), stating that his wife Sumitra, i.e. the applicant had deserted him in 1982 and had remarried one A.Baley, who was employed in Bajaj Auto, Akurdi, Pune. Accordingly, their relationship as husband and wife had ceased to exist. He had also asserted his re-marriage with the 3rd respondent and, therefore, unless legal heirship of the two contesting 1st and 2nd wives were decided by a Competent Court, it was not possible to disburse the amount of family pension to either of the two ladies.

5. After giving careful consideration to the rival contentions, I am of the view that if the first marriage of the deceased with the applicant was dissolved due to her re-marriage with another man, she would not be entitled to claim the family pension payable on account of the death of the employee A.Vishwanathan. The question whether the 1st marriage of the deceased stood dissolved, or was subsisting on the date of his death and/or whether his second marriage with the 3rd respondent was valid or invalid cannot be

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enquired or gone into by this Tribunal for want of jurisdiction. It can be decided only by a Civil Court of competent jurisdiction. Under the circumstances, the applicant is not entitled to any relief from this Tribunal.

6. For the foregoing reasons, this O.A. is mis-conceived in the sense that the reliefs claimed and the dispute raised are beyond the scope and jurisdiction of this Tribunal. Accordingly, it is hereby dismissed, but without any orders as to costs.

*KM*  
(K.M. AGARWAL)  
CHAIRMAN.