

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 2/98

Transfer Application No.

Date of Decision 13.2.1998

Smt. S.R.Gour

Petitioner/s

Shri R.G.Bhore

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.S.Sundaram for R.1&2

Advocate for
the Respondents

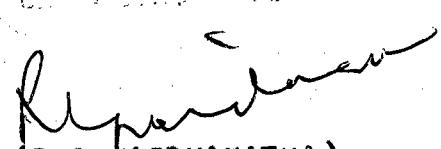
Shri K.K.Pillai for R.3.

CORAM :

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

Hon'ble Shri.

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


(R.G.VAIDYANATHA)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI
CAMP : NAGPUR

DA NO. 2/98

Friday this the 13th day of February, 1998

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

Smt. Shakuntalabai Wd/o Ramlal Gour
Family Pensioner, R/o Somalwada,
Wardha Road, Nagpur.

By Advocate Shri R.G.Bshore ... Applicant

v/s.

1. Union of India through General Manager, Central Railway, Mumbai.
 2. Senior Divisional Manager, Central Railway, Nagpur.
 3. Smt. Mohinibai alleged to be widow of Ramlal Gour, R/o behind Rammandir, Hansapuri, Nagpur.

By Advocate Shri R.S.Sundaram
for Respondents No. 1 & 2.

By Advocate Shri K.K.Pillai
for Respondent No. 3.

... Respondents

ORDER

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application filed by the applicant under Section 19 of the A.T.Act. Respondents have filed reply. I have heard both sides regarding admission and interim relief.

.., 2/-



2. It is stated that Ramlal Gour was working as Engine Driver in the Central Railway. He retired on Superannuation on 30.4.1996. Then he died on 2.8.1996. Pension has been sanctioned to the deceased but he had not drawn the amount. He has also declared the applicant as wife and he has nominated her for the purpose of pension after his death. The applicant is, therefore, entitled to family pension from 3.8.1995 on the death of her husband. The Railways has sanctioned the family pension to the applicant but the amount has not been paid to the applicant. But in the meanwhile on the rival claim put forward by 3rd Respondent, the Railway Administration issued a letter dated 8.10.1996 to Respondent No. 3 with a copy to the applicant by calling upon them to produce a succession certificate for claiming the family pension. Being aggrieved by that order, the applicant has filed this application.

According to the applicant, she is only the real wife of the deceased and she is entitled to claim family pension as per the Pension Payment Order and the department has no right to withdraw the payment after having sanctioned the family pension. She has also denied that the 3rd Respondent is the wife of the deceased employee.

3. Respondents have stated that since there is a dispute between the two wives, the claim cannot be decided unless the dispute in Civil Court is settled.

The Respondent No. 3 has pleaded that she was married to deceased employee on 20.6.1962. She has also stated that her name was shown as wife of deceased in the official record like papers pertaining to P.F.advance, Ration Card, Railway passes etc.

4. According to the applicant, she is alone the wife of deceased. The Third Respondent

submits that she is alone the wife of deceased employee. I have heard the submission of both sides.

Learned counsel for the applicant contended that respondents had no right to stop the payment and are bound to commit its payment and pay family pension to her irrespective of the rival claim made by the Respondent No. 3. But the learned counsel for the respondents supported the stand taken by the administration and stated that when there is dispute between the two claimants regarding status as wife, the payment cannot be made unless the dispute is resolved by the Civil Court. Respondents contended that Respondent No. 3 is the sole wife of the deceased and is entitled to family pension.

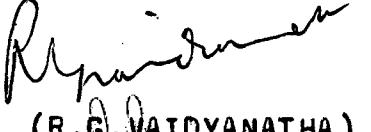
5. There is a serious dispute between the parties regarding their status. Applicant claims to be wife on the one hand and the Respondent No. 3 also claim as the wife on the other hand. Both parties are relying on some official documents to show their status. The applicant is relying on nomination and other official record where the deceased had shown the applicant as his wife.

On the other hand, the Respondent No. 3 also relies on official papers like papers pertaining to P.F. advance for the years 1985, 1987, 1988, 1989, 1990 and 1993, Ration Card, Railway Passes for many years issued for the benefit of deceased. Photograph of six children of Respondent No. 3 and her husband. School Record of all the six children where the deceased is shown as Father, Voter's Identity Card where the Respondent No. 3 is shown as wife of the deceased. Group photo of Respondent No. 3, husband and children taken on the occasion of

marriage of one of the daughter. It is, therefore, seen that there is very serious dispute between applicant and Respondent No. 3 on the question of relationship between them and deceased. This matter cannot be decided by this Tribunal. Respondent No. 3 has produced an old marriage card of 1962 that she was married to deceased in 1962. When there is a serious dispute regarding their marriage and as being wife, the dispute cannot be decided by this Tribunal. It is a matter to be decided by filing a Suit in a Civil Court.,

6. It is brought to my notice that ~~Respondent~~ No.3 had filed a suit in the Civil Court for declaration of marriage but the plaint was returned ~~and~~ succession/for presentation to proper court since the Civil Court has no jurisdiction when a Family Court is there in a particular area. Since the Railway administration wanted both the wives to produce succession certificate, Respondent No. 3 has filed an application for obtaining the succession certificate in the Court of the Civil Judge, Senior Division at Nagpur, where the applicant is made a party. Therefore, both the parties are contesting their claim in the matter. I am told that evidence is partly recorded. We are not concerned as to what is the nature of grievance in that case. Unless the status of applicant and Respondent No. 3 is decided in the Family Court or Civil Court this Tribunal cannot interfere at this stage for granting the relief regarding family pension. Therefore, in my view, the present application is not maintainable unless and until ~~one of the~~ parties ~~one of the~~ gets succession certificate or declaration from the Civil Court.

7. In the result, the application is rejected at the admission stage. However, this order is without prejudice to the rights of the applicant or Respondent No. 3 to approach this Tribunal after necessary declaration from Civil Court for claiming the family pension. It is made clear that any ~~observation~~ made in this order should not be taken as conclusive but opinion expressed for the limited purpose to decide admission of this application. In the circumstances of the case, there will be no orders as to costs.


(R.G. VAIDYANATHA)
VICE CHAIRMAN

mrj.