

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 566 OF 1998.

Date of Decision: May 06, 1999.

Mrs. Maya Naresh Susvirkar & Anr., Applicants

Shri L. M. Nerlekar, Advocate for
Applicant.

Versus

Union Of India & Anr., Respondent(s)

Shri R. R. Shetty, Advocate for
Respondent(s)

CORAM:

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

XXXXXX8XXXX

(1) To be referred to the Reporter or not? NO
(2) Whether it needs to be circulated to NO
other Benches of the Tribunal?

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

os*

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 566 OF 1998.

Dated this Thursday, the 7th day of May, 1999.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

1. Mrs. Maya Naresh Susvirkar,
Divorced wife of Late Naresh
Sitaram Susvirkar,
Residing at -
Ambewadi, Popet Shedh Chawl
No. 1/31, B. D. Ambedkar Road,
Kala Chowki,
Mumbai - 400 033.

2. Miss Dipali Naresh Susvirkar
represented by Applicant No. 1
(By Advocate Shri L. M. Nerlekar)

... Applicants

1. Union Of India through
The General Manager,
Central Railway C.S.T.,
Mumbai - 400 001.

... Respondents.

2. Chief Workshop Manager,
Parel, Central Railway,
Mumbai - 400 012.

(By Advocate Shri R. R. Shetty)

OPEN COURT ORDER

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

This is an application filed by the applicants
claiming family pension, provident fund, D.C.R.G., etc.
which were due to deceased Naresh Sitaram Susvirkar, who
was a Welder in the Welding Shop, Parel and who died on
16.04.1997. The first applicant is a divorced wife of the
said deceased. The second applicant, Ms. Dipali, is the
daughter of the deceased. The first applicant also claims
that she is entitled to get Rs. 26,000/- and odd towards



...2

the maintenance due to her as per the decree of Civil Court. The second applicant is entitled to get D.C.R.G., Provident Fund and Family Pension from 16.04.1997.

2. The respondents in their reply have not denied the relationship of the applicants with the deceased official but it is stated that since the first applicant is the divorced wife of the deceased employee, she is not entitled to claim any service ^{ex-} benefits of her/husband. They are not disputing the claim of the second applicant, except stating that the brother of the deceased had sent a representation to the department stating that the amount should not be paid to the ex-wife, since she may not take care of the daughter. As far as the first applicant's claim is concerned, the respondents have admitted that they are liable to pay the amount as per the decree of the Family Court dated 02.05.1998. They have even annexed a copy of the decree of the Family Court. They have also taken a plea that the first applicant should produce a Guardianship Certificate to claim the amount on behalf of the second applicant.

3. At the time of argument it is not disputed that the second applicant, Miss Dipali, is entitled to the retirement benefit of her father, being the sole legal heir. Therefore, she will be entitled to get the amount due to the deceased towards provident fund, D.C.R.G., etc. She is also entitled to the Family Pension till she attains the age of 25 years or till her marriage as per rules.

4. This Tribunal has no jurisdiction to award any amount to the first applicant towards her maintenance claim as per the Decree of the Civil Court. But however, the respondents themselves have admitted that they are liable to pay Rs. 26,044/- towards maintenance as per the Decree of the Civil Court. Therefore, as per this statement, they must pay this amount to the first applicant. After excluding the said amount, the entire balance amount of Provident Fund ~~and~~ D.C.R.G. should be paid to the second applicant in addition to Family Pension from the date of death of her father, namely - 16.04.1997.

5. It is seen that the second applicant is a minor and it is stated that she is now aged about 15 years. She will be attaining majority in about three years. I, therefore, feel that in the interest of the minor daughter, the amount to be paid to her should be deposited in any Nationalised Bank with liberty to the first applicant to draw interest periodically and spend it for the benefit of the minor.

The respondents' contention that the first applicant ~~should~~ produce Guardianship Certificate has no merit, since the mother is a natural guardian of the minor daughter, particularly when the father is no longer alive. The fact that the mother is the divorced wife, has no relevance so far as the relationship between the mother and the daughter is concerned.

6. In the result, the application is allowed as follows :-

- (i) It is open to the respondents to pay the amount of Rs. 26,044/- to the first applicant towards maintenance, as admitted in the reply.
- (ii) The balance amount towards D.C.R.G. and Provident Fund and any other amount due to the deceased should be paid to the first applicant subject to whatever recoveries the department has to make towards loan, festival advance, etc. But this amount shall be invested in any fixed deposit scheme in any Nationalised Bank covering the entire period of minority of the second applicant. As agreed, the amount may be invested in the State Bank Of India, Kala Chowki Branch near Byculla, Mumbai. However, liberty to the first applicant, the mother, to draw interest from the Fixed Deposit to spend it for the benefit of her minor daughter.
- (iii) The fixed deposit shall be in the name of the second applicant, the daughter, and it should cover the entire period of her minority and maturity after she attains majority.
- (iv) The family pension that is payable to the second applicant, as the daughter of the deceased, shall be paid to her from 16.04.1997 till she attains the age of 25 years or till her marriage, whichever is earlier, as per rules.

(v) The respondents should comply with this order within a period of two months from the date of receipt of a copy of this order.

(vi) In the circumstances of the case, there shall be no order as to costs.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.