

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

O.A. No.348/1990

Date of order:15.11.1990

Between

1. Smt. Ameena Bee alias Rabiya bee,
W/o Shaik Madar, SKG dudu,
Lingampally Station, Ranga Reddy Dt.

2. Sabiyabeen, D/o Shaik Madar,
SKG budu represented by her mother
Smt. Ammenna Bee Alias Rabiya bee.

3. Wahid Ali, D/o Shaik Madar Skg hudu,
represented by his mother Smt. Ammenna
bee, Alias Rabiya bee.

.. Applicants

Vs.

1. Union of India represented
by its General Manager, South
Central Railway, Secunderabad.

2. The Divisional Railway Manager,
Broad Guage, Rail Nilyam, Secunderabad.

3. Accountant General, AP, Hyd.,
(Pension Personnel Officer),
A.G. Mint Compound, Hyderabad.

.. Respondents.

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APPEARANCE

For the Applicants : Mr. N. Ramamohana Rao, Advocate
S.e. for Railways

For the Respondents : Mr. N. R. Devaraj, Standing Counsel
For Central Govt.

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THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI D. SURYA RAO, MEMBER(JUDICIAL)

(Judgement of the Bench delivered by Hon'ble Shri B.N.Jayasimha)
Vice Chairman

b/n

The first applicant herein claims to be the second wife of the deceased railway employee who retired as Gatekeeper of the Operating Department, South Central Railway in the year 1976. While in service the husband of the first applicant, Sri Shaik Madar had been married to one Ameenabee who died on 1.9.77. It is stated that on 4.11.77 a nikha was performed in accordance with the Muslim Personal Law and the applicant was married to the deceased employee. The applicant's husband made several representations informing the authorities about the second marriage and requested them to delete the name of the first wife and ~~insert~~ in the records ^{insert} the name of the second wife as nominee for all pensionary benefits. Several reminders were sent by the first applicant's husband. On 30.12.82 Sri Madar passed away. The first applicant states that though her name was Rabiabee before marriage, her husband ~~used~~ to call as Aminabee. The applicant states that she filed the Xerox copy of the marriage certificate issued by Kazi, a certificate issued by the Municipal Commissioner at Serilingampally Municipality, a certificate issued by the Chairman, Municipal Council Serilingampally along with her representation to show that she was the wife of Sri Shaik Madar and she was blessed with two children. Despite the applicant informing the respondents about her husband's earlier representations requesting to carry out corrections in the service records, the respondents orally informed the first applicant that

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she is not entitled for family pension as the deceased employee was married to her after retirement and as the relation between master and servant ends with the retirement of an employee. She further states that by the impugned order CP/500/ONR/76 dt. 16.3.90 the respondents rejected the claim of the applicant for family pension on the ground that the photographs submitted by her deceased husband do not relate to her. The applicant contends that the said photographs could never tally as the name found in the record and the photographs affixed relate to the first wife. The applicant contends that if the respondents are not prepared to believe the certificates produced by the applicant, it is open for them to conduct an enquiry into the matter. However without verifying whether the deceased employee married second time or not, the respondents cannot reject the representation of the applicant on the plea that she is not Ameenabee whose photographs appear in the records. She therefore seeks that the relevant records be called and the impugned order dt.16.3.90 be quashed directing the respondents to pay all pensionary benefits to her. A notice has been issued to Respondents 1 and 2 and the notices have been duly served on them on 15.2.'90. No counter has been filed as of today.

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2. We have heard the learned counsel for the applicant Shri N. Ramamohan Rao, and Shri N.R. Deva Raj, Standing Counsel for Railways. The contentions of Shri Ramamohan Rao is that the respondents have not considered all the material that the applicant placed before them or called her to furnish any other material if required, before rejecting her claim. He also states that the deceased employee even while he was alive had sent a letter to the Accountant General with copy to the Divisional Superintendent, South Central Railway requesting that the applicant's name be incorporated in the records for family pension in the event of his death. He therefore states that all that the applicant seeks is that the respondents may be directed to give an opportunity to the applicant to place all the material before them in regard to her claim for the family pension as the legally wedded wife of the deceased employee and thereafter pass appropriate order. He also states that initially the respondents had rejected the claim of the applicant on the grounds that the rules does not permit payment of family pension when a second marriage is contracted after the retirement of the deceased employee. This contention is not tenable in view of the decision of the Supreme Court in Smt. Bhagavantibai Vs. Union of India (1989(4) SC 397).

3. On a careful consideration of submissions made by the counsel for the applicant and the learned Standing Counsel for the respondents it appears to us that the respondents have not considered the claim on merits on the ground that according to rules the wife of a second

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marriage contracted after retirement is not eligible for family pension as per rules. This rule has been held invalid by the Supreme Court. In the circumstances, we direct that the Divisional Railway Manager, (BG) South Central Railway, Secunderabad to consider all the material furnished by the applicant and additional material which she may wish to produce (she will do so within 2 weeks) in support of her claim and decide the matter afresh in accordance with the rules. It is open to the Divisional Railway Manager to get any further enquiries made from any other authorities if he considers necessary. The Divisional Railway Manager will pass his order within 8 weeks after the receipt of material from the applicant. The O.A. is disposed of with these directions. No orders as to costs.

B.N.Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

D. Surya Rao
(D. SURYA RAO)
MEMBER (JUDICIAL)

Dictated in the open court of Suryanarayana Quarters
Dt. 15.11.1990. for Deputy Registrar (Judicial)
23.11.90

To

1. The General Manager, Union of India, S.C.Rly, Secunderabad.
2. The Divisional Railway Manager, Broad Guage, Railnilayam,
Mys Secunderabad.
3. The Accountant General, A.P.Hyd., (Pension Personnel Officer),
A.G.Mint Compound, Hyderabad.
4. One copy to Mr.N.Rammohan Rao, Advocate
714, Brindavan Apartments, Red Hills, Hyderabad.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
6. One spare copy.

pvm

RSR
23/11/90
YANOK

CHECKED BY
TYPED BY

APPROVED BY
COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)
AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)
AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE: 20-11-1990

~~ORDER~~ JUDGEMENT:

M.A. / R.A. / C.A. / No.

in

T.A. No.

W.P. No.

O.A. No. 348 / 90

Admitted and Interim directions
issued.

Allowed.

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered / Rejected.

No order as to costs.

DESPATCH

26 NOV 1990

HYDERABAD BENCH.