

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 662/91
T.A. No.

198

DATE OF DECISION 28-3-1982

Smt. M. Kanakamma Petitioner

Sri P. Veera Reddy Advocate for the Petitioner(s)

Versus

The Divisional Rly. Manager, SC Rly Respondent
Vijayawada & another

Sri V. Bhimanna Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. T. CHANDRASEKHARA REDDY, MEMBER (J)

The Hon'ble Mr. ---

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

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JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED
BY THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL)

This is an application filed by the applicant herein, under Section 19 of the Administrative Tribunals Act, for direction to the respondents to grant her the arrears of pension and monthly pension regularly due to the applicant due to the death of her husband Late Sri M. John, a B-Grade Driver at Konakonda Railway Station, Darsi Taluk, Prakasam District on 28.10.73, while in service by declaring the action of the respondent in insisting the applicant to produce a fresh succession certificate as illegal, irregular, unjustified and arbitrary and to pass such other orders as may be deemed fit and proper in the circumstances of the case.

The facts giving rise to this application in brief may be stated as follows:

One Sri B. John was a B-Grade Driver at Donakonda Railway Station, Darsi Taluk, Prakasam Distt. in the Railways. He died on 28.10.73 while he was in service. The said Sri John had married a lady by name Smt Santhamma through whom he got 7 children. The fact that the said Smt Santhamma is the legally wedded wife of the said Sri B. John and the the said seven children in fact that Smt Santhamma begot through Sri John is not in dispute in this OA.

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But, the said Smt Santhamma seems to have died in the year 1963.

2. It is the case of the applicant that after the death of his first wife, the said Late Sri John married the applicant herein, Smt M.Kanakamma for the second time. After the death of Sri M.John, in the year 1973, the applicant had approached the respondents herein, who are the Divisional Railway Manager (R1) and Divisional Personnel Officer (R2) of South Central Railway, Vijayawada, to pay her pensionary benefits. As the children of the first wife Smt Santhamma disputed the legal status of the applicant as the wife of Sri M.John, the railways did not pay her any pensionary benefits, ~~the railways~~ and demanded the applicant to produce a succession certificate.

3. The applicant had filed OP.No.1/85 in the District Munsif, Court, Darsi, for issue of succession certificate for getting pensionary benefits. But, in the said OP 1/85 the applicant did not implead the children of the first wife Smt Santhamma nor the railways as respondents. The respondents did not pay pensionary benefits on the succession certificate obtained by the applicant as neither the children of the first wife or the railways were impleaded as respondents. Hence, the present OA is filed by the applicant for the reliefs as already indicated above.

T. C. N. P

(33)

4. Counter has been filed by the respondents opposing this OA.

5. This OA was listed for final hearing on 19.2.92. That day, the applicant was absent. Advocate for the applicant was also not present. Hence, this OA was listed for dismissal on 21.2.92. On 21.2.92 also none were present from the applicant side. There was no representation on behalf of the applicant. Sri V. Bhimanna, SC for Railways was present and he was heard. The judgement was reserve

6. It is quite evident from the proceedings and 21.2.92 of 19.2.92/that the applicant is not evincing any interest.

[REDACTED]

[REDACTED]

7. As could be seen from the counter filed by the respondents, the children of the said Smt Santhamma, the first wife of the said Sri Late John were not made parties in OP 1/85 on the file of the District Munsif Court, Darsi, which was filed for issue of succession certificate. As the legal status of the applicant as the wife of Late Sri M. John is disputed by the children of the first wife, the applicant should have approached a Civil court, and should have got declared her legal status as the wife of Late Sri M. John, after impleading the children of as the respondents/defendants first wife Smt Santhamma in the said civil proceeding:

T. C. Nalp

(29)

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Admittedly, this has not been done by the applicant.

So long as the legal status of the applicant is not decided by the competent court and as already pointed out, the children of the first wife not being the parties to the OA 1/85 filed in the Distt. Munsif Court, Darsi, the respondents are not justified in not paying the applicant arrears of pension and also monthly pension which the applicant is claiming.

Hence, we see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed. The parties are directed to bear their own costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 20 March, 1992

83/4/92
Deputy Registrar (J)

To

1. The Divisional Railway Manager,
S.C.Railway, Vijayawada.
2. The Divisional Personnel Officer, S.C.Rly, Vijayawada.
3. One copy to Mr. P. Veera Reddy, Advocate,
10-1-18/16, Shyamnagar, Hyderabad.
4. One copy to Mr. V. Bhimanna, SC for Rlys, CAT.Hyd.
5. One spare copy.

pvm

mvl

same day