

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 293/92

Date of Order: 23.3.1993

BETWEEN :

1. Smt SuSai Mary
2. Anthony Selva
3. John Selvastar
4. Pullath Vallaramadi
5. Harry Denmartin

.. Applicants.

A N D

1. The Chief Personnel Officer,
South Central Railway,
Secunderabad.
2. The Deputy Chief Signal and
Telecommunications Engineer
S & T Work Shop,
Mettuguda, Secunderabad.
3. The Assistant Personal Officer
Mettuguda,
Secunderabad.
4. Kum. J.Suseela

.. Respondents.

Counsel for the Applicants.

.. Mr. P. Krishna Reddy

Counsel for the Respondents

.. Mr. D. Gopal Rao

CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUD L.)

(21)

Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.).

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents 1 to 3 to pay the death-cum-retirement benefits namely Gratuity, Provident Fund, Insurance amount etc to the applicants that are payable on the death of Henry Alexander who expired on 18.12.1986 and also sanction the family pension to the applicants and pass such other order or orders as may deem and proper in the circumstances of the case.

The facts giving rise to this O.A. in brief are as follows:-

One Henry Alexander while working as Black Smith in S & T Work Shop, Mettuguda under the control of the 2nd respondent died on 18.12.1986. The said Henry Alexander was married to one Anthonyamma who pre-deceased Henry Alexander on 28.9.1985. The first applicant is the mother of the said Henry Alexander where as applicant 2 to 5 are the children of the said Henry Alexander through the said Anthonyamma. It is the case of the applicants that the said Henry Alexander after the death of his wife Anthonyamma till he died on 18.12.1986 did not marry a second time. It is their case that the said Henry Alexander has made certain nominations before the respondents 1 to 3 for the payments of his death-cum-retirement benefit and that the applicants are accordingly ~~entitled~~ ^{entitled} to be paid the death-cum-retirement benefits.

3. The applicants after the death of the said Henry Alexander had approached the respondents 1 to 3 to pay ~~them~~ the death-cum-retirement benefits as per the nomination of the said Henry Alexander and also the family pension. The

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4th respondent in this O.A. is one Kum.J.Suseela. She is said to be the sister of Smt Anthonyamma the deceased wife of Henry Alexandar. Kum.Suseela had approached the respondents 1 to 3 claiming family pension and also other recruitment benefit on the ground that she is the wife of Henry Alexandar and was married to him after the death of Anthonyamma. As there was a rival claim ^{and} only namely the mother of Alexandar and children through Anthonyamma on one side and Kum.Suseela (4th respondent) claiming to be the ^{widow of Anthonyamma} on the other side claiming pensionary benefits and other retirement benefits, the respondents did not pay either the family pension or the death-cum-retirement benefits either to the applicants herein or to the 4th respondent. As a matter of fact the respondents had advised the 4th respondent (Kum.J.Suseela) as per letter dt. 19.8.1987 to approach Civil Court and obtain a succession certificate for payment of the death benefits to the said Henry Alexandar. The 4th respondent till today had not filed any succession certificate before the respondents 1 to 3 for payment of the settlement dues of the said Henry Alexandar. So, as the respondents 1 to 3 did not pay the settlement dues and also the family pension, the mother of the said Henry Alexandar who is the first applicant and the applicants 2 to 5 children of the said Anthonyamma through the said Alexandar have filed the present O.A. for the relief as already indicated above.

4. Counter of the respondents is not filed.

5. Today none are present on behalf of the applicant. Eventhough counter of the respondents is not filed as the material before us is sufficient to dispose of this O.A., after hearing Mr.D.Gopal Rao, Standing Counsel for the respondents we proceed to dispose of this O.A. This O.A. as per orders dt. 20.4.1992 had been admitted. At the time

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of admission ~~of~~ the Bench ordered to issue notice to the 4th respondent to file reply opposing this O.A. within six weeks with a copy to the Advocate for the applicant. Notice accordingly had been served on the 4th respondent on 8.5.1992 as could be seen from the Registered Post Acknowledgement Due of the fourth respondent. Inspite of serving notice on the 4th respondent ~~the 4th respondent had neither chosen to appear before this Tribunal nor had filed a reply opposing this O.A.~~ The Bench ordered on 10.2.1993 to issue a fresh notice again to the 4th respondent. So, as per the order of the Bench dt. 10.2.1993 notice was issued to the 4th respondent by Registered Post Acknowledgement Due informing the 4th respondent to appear before the Tribunal on 29.3.1993 at 10.30 A.M. and that the 4th respondent would be at liberty to file counter to this O.A. on or before 29.3.1993 and failing which that the matter would be decided in her absence and without her counter. The said notice had been returned with the endorsement "No such ^a person. Hence returned." It is significant to note that the notice dated 20.4.1992 and the notice dated 10.2.1993 are sent to one and the same address and where as the notice dt. ~~20.4.1992~~ had been served personally on the applicant on 8.5.1993, the notice dt. 10.3.1993 had been returned with the said endorsement. We are satisfied from the facts and circumstances that the 4th respondent is not evincing any interest in this proceeding and as the matter relates to payment of pension and as already the matter is delayed and no purpose would be served in pending this O.A., this matter (as already pointed out) is decided with the available material.

6. The fact that Henry Alexander was a Railway Employee and that he was married to Anthonyamma is not in dispute in this O.A. It is also not in dispute that the said Anthonyamma died on 28.9.1985 and that applicants 2 to 5 are children of

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Anthonyamma through the said Henry Alexandar. It is also not in dispute that the first applicant is the mother of Late Henry Alexandar. It was brought to our notice that when the said Henry Alexandar was alive that he had made nominations for the payment of settlement dues (death-cum-retirement benefits). It is ~~not~~ also not in dispute that the applicants have got a right to be paid family pension according to Railway Pension Rules, 1930, in view of the relationship of the applicants to the said Henry Alexandar. So, this O.A. is liable to be allowed.

7. As already pointed out the 4th respondent Kum. Suseela has approached the respondents 1 to 3 claiming to be the legally wedded wife of the said Henry Alexandar. She seems to have approached respondents 1 to 3 alleging that she was married to the said Henry Alexandar after the death of Smt. Anthonyamma. The said Kum. Suseela (4th Respondent) claims to be the own sister of the said Smt. Anthonyamma. It is significant to note that the said Henry Alexandar after the death of his wife Anthonyamma had not changed the nominations he had made before. Absolutely no material is available with the respondents to show that the 4th respondent is the legally wedded wife of the said Henry Alexandar. The 4th respondent inspite of giving opportunity has neither filed counter nor has placed any material before the Tribunal to show that she is the legally wedded wife of Henry Alexandar. The 4th respondent had not even chosen to appear before this Tribunal and make her submissions if any to satisfy the Tribunal that she is the legally wedded wife ~~so, for want of proof we are not prepared to accept that the 4th respondent is the legally wedded wife of Alexander~~ of the said Henry Alexandar or that the said Henry Alexandar had married the said Kum. J. Suseela after the ~~xxx~~ death of Smt. Anthonyamma. So, as there is no proof to show that the 4th respondent (Kum. J. Suseela) is the legally wedded wife of the said Henry Alexandar she is not entitled ~~either~~ for family pension or for any of the settlement dues.

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8. As already pointed out while narrating the facts giving rise to this O.A., the respondents had advised the 4th respondent as per their letter dt. 19.8.1987 to produce a succession certificate for payment of pension and other benefits. Even though more than 5 years have elapsed the 4th respondent had not produced the succession certificate before the respondents 1 to 3 to show that she is the legally wedded wife of Henry Alexander and as such is entitled for payment of pensioners benefits. So, in view of this position, it is very difficult to say that the 4th respondent is the legally wedded wife of Henry Alexander.

9. As already pointed out, the relationship of the applicants 1 to 5 to the said Henry Alexander is not at all in dispute. So, in view of this position, we direct the respondents to pay the settlement dues and also the family pension to the applicants 1 to 5 in accordance with rules and regulations within three months from the date of communication of this order.

10. O.A. is disposed of accordingly, leaving the parties to bear their own costs.

T. Chandrasekara Reddy

(T.CHANDRASEKHARA REDDY
Member (Judl.)

Dated: 23rd March, 1993

(Dictated in Open Court)

Deputy Registrar (J)

To

1. The ^{Sd} Chief Personnel Officer, S.C.Rly, Secunderabad.
2. The Deputy Chief Signal and Telecommunications Engineer, S&T Work Shop, Mettuguda, Secunderabad.
3. The Assistant Personal Officer, Mettuguda, Secunderabad.
4. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
5. One copy to Mr.D.Gopal Rao, SC for Rlys, CAT.Hyd.
6. One spare copy.

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TYPED BY

COMPARED BY

CHECKED BY (b)

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. K. BALASUBRAMANIAN
MEMBER (ADMN)

AND

THE HON'BLE MR. T. CHANDRASEKHAR
REDDY : MEMBER (JUL)

DATED: 23-3-1993

ORDER/JUDGMENT

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

in

O.A.No. 293/92

T.A.No. (W.P. No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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