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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 414/97

Date of decision: 13-4-1998

Between:

Smt. Kamala Bai
w/o. Late P. Rajeshwara Rao

..Applicant

A N D

1. The Superintendent of Post Office,
Adilabad Division,
Adilabad - 504 001.

2. The Sub Post Master,
Nirmal,
Adilabad Dist. 504 106.

3. The Postmaster General,
Andhra Pradesh,
Hyderabad.

4. The Director of Accounts (Postal),
Hyderabad.

5. Saroja,
R/o. Main Road, Nirmal Town,
Nirmal, Adilabad-504 106. ..Respondents

Counsel for the applicant : Mr. Jacob

Counsel for R-1 to R-4: Mr. V. Rajeshwar Rao

Counsel for R-5 : Mr. K. Venkateswara Rao

Coram:

Hon'ble Shri H. Rajendra Prasad, Member(A)

ORDER

(Per Hon'ble Shri H. Rajendra Prasad, M(A))

Heard Mr. Jacob for the applicant, Mr. V. Rajeshwar Rao for official respondents and Mr. K. Venkateswara Rao for R-No. 5.

2. The applicant was married to one P. Rajeswar Rao, a Postman under Respondent-1, in the year 1954. The said employee passed away in October, 1996. It would appear that he had married a second time, without, however, obtaining a divorce or legal separation from his first wife i.e., the applicant. Moreover, in the nomination furnished to the department, he mentioned respondent No.5 (said to be the second wife) as the sole recipient of his death-cum-retirement benefits. The 5th respondent is stated to have four daughters by him. On the strength of the nomination the 5th respondent was granted immediate relief on the demise of the employee ~~besides~~ and provisional DCRG, besides CGEGIS, the outstanding credit balance in the PF, duty pay for ^{the} 8 days, and PLB due to late employee.

3. The applicant in this OA claims family pension in her own favour.

4. Mr. V. Rajeshwar Rao points out that even before the entry of deceased employee in service he had married Respondent No.5 and, even though the applicant was aware of it, the department had no knowledge of her earlier marriage to the employee. Furthermore, the department had in any case acted correctly in disbursing these benefits to Respondent No.5 since

Q. 13/1

..3/-

she had been duly named by the deceased employee, a nomination which was accepted at the time without being aware of the existence of any other spouse or ^{her} children. It is pointed out by the Addl. Standing Counsel that the applicant has been absolutely negligent in the matter and has therefore no right or claim since she has chosen finally to move in the matter only after the death of the employee. Even the fact of her getting maintenance grant at one time was not within the knowledge of the department since she had not at any time addressed or informed the authorities about this fact.

5. Mr. Jacob submits that in accordance with the Govt. of India C & AG letter No. 211-Audit I/13-86 dt. 4-3-1987, the second spouse will not be entitled to family pension in the capacity of a legally-wedded wife. In this case, the very legality of the so-called second marriage is suspect since the employee had apparently married R-5 even during the lifetime of his first wife (applicant) without seeking or obtaining annulment of the marriage or ~~even~~ her consent. On the other hand Mr. Rajeshwar Rao points out that, according to the decision of Govt. of India the children from a subsequent marriage, even if it is not a legally valid union, would be entitled to a share of the family pension.

6. Mr. K. Venkateswara Rao, counsel for R-5, points out that the Hindu Marriage Act came into force only in 1955, whereas the deceased employee is learnt to have married Respondent No.5 prior to coming into effect of, the Act. Her marriage, therefore, cannot be held invalid, and adds that as per Pension Rule No. 54(7)(a)(i),

where there are more than one widows surviving the employee the family pension will be divided and allotted equally between them @ 50% to each widow. He further points out that the action of the Respondents in paying the other benefits, and which have already been received by her, was done as per a valid nomination and cannot be faulted. This nomination had to be taken as valid not only because it was given willingly by the employee himself, but also because it was given prior to the coming into force of the Hindu Marriage Act. There was as such no illegality involved in 5th Respondent acquiring the due status of a legally-married wife and receiving these amounts.

7. In view of the various facts and contentions as noted above, the only course of action which is feasible of implementation, and therefore is directed to be implemented, is that the respondents should examine the question of division of the family pension due to the family of late employee between the applicant on the one hand and Respondent-5 and her children on the other. It is submitted by Mr. Jacob that the applicant is willing to accept a decision of this nature which may be taken, communicated and implemented within 60 days from the date of receipt of copy of this order by R-No.1. Thus the OA is disposed of.


(H. RAJENDRA PRASAD)
Member (A)

MD


D. P. Regasthani

O.A.414/97

To

1. The Superintendent of Post Office,
Adilabad Division, Adilabad-1.
2. The Sub Postmaster, Nirmal, Adilabad Dist-106.
3. The Postmaster General, A.P.Hyderabad.
4. The Director of Accounts (Postal)
Hyderabad.
5. One copy to Mr.Jacob, Advocate, CAT.Hyd.
6. One copy to Mr.V.Rajeswar Rao, Addl.CGSC. CAT.Hyd.
7. One copy to Mr.K.Venkateswar Rao, Advocate, CAT.Hyd.
8. One copy to HHRP.M (A) CAT.Hyd.
9. One copy to DR(A) CAT.Hyd.
10. One spare copy.

pvm

20/4/98
I COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

~~VICE-CHAIRMAN~~

~~AND~~

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

DATED: 13 -4 -1998.

~~ORDER/JUDGMENT~~

M.A./R.A./C.A. NO.

in

O.A. NO. 414/97

T.A. NO.

(w.p.)

Admitted and Interim directions
issued.

~~Allowed.~~

Disposed of with directions

~~Dismissed.~~

~~Dismissed as withdrawn.~~

~~Dismissed for Default.~~

~~Ordered/Rejected.~~

~~No order as to costs.~~

pvm.

केन्द्रीय प्रशासनिक अधिकारण Central Administrative Tribunal हైదరాబాదు న్యాయపీఠ HYDERABAD BENCH
27 APR 1998 Despatch No. 1 RECEIVED 27 APR 1998 VIMALA/PAPPAL SECTION