

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00443/2014

DATE OF ORDER: 04.08.2015

CORAM**HON'BLE MR. JUSTICE HARUN-UL-RASHID, JUDICIAL MEMBER**

Narangi Devi W/o late Shri Chitariya, by caste Patwa, aged about 48 years, R/o Janambhoomi Link Road Delhi bypass, Near Alwar Pul, in front of Basera Hotel Wali Gali, Om Nagar, Mathura (U.P.) - 281001.

...Applicant

Mr. P.N. Jatti, counsel for applicant.

VERSUS

1. Union of India through the General Manager, West Central Railway, Jabalpur (M.P.).
2. Divisional Railway Manager, West Central Railway, Kota.
3. Senior Divisional Personnel Officer, West Central Railway, Kota.
4. Shrimati Prem Devi, aged about 65 years, R/o Brahmbad, Sub Dn. Bayana, Bharatpur.

...Respondents

Mr. Y.K. Sharma, counsel for respondent nos. 1 to 3.
None present for respondent no. 4.

ORDER

The Original Application is filed seeking to set aside Annexure A/1 order dated 08.10.2013, for a direction directing the respondents to allow the applicant to draw all retiral benefits of Shri Chhitariya and for a direction to the respondents to sanction family pension to the applicant w.e.f. 27.11.2000.

2. The applicant, Smt. Narangi Devi, claimed to be the widow of deceased Govt. servant Shri Chhitariya, who was an employee in the Railway department. Shri Chhitariya expired on 26.11.2000. According to the applicant, deceased Govt. servant left behind him the applicant (Smt. Narangi Devi) and her daughter Ms. Manju Kumari. The applicant approached the official respondents claiming the retiral benefits of her deceased husband. Smt. Prem Devi (respondent no. 4) also approached the official respondents for releasing the retiral benefits of deceased Chhitariya in her favour claiming that she is a real wife of the deceased Govt. servant.

3. The applicant earlier filed OA No. 496/2011 before this Tribunal seeking a direction directing the respondents to sanction the family pension w.e.f. 27.11.2000 with arrears in her favour and also prayed for disbursement of the retiral benefits of her husband. Tribunal disposed of the OA vide order dated 22nd April, 2013. In that OA also, Smt. Prem Devi was respondent no. 4. After hearing the applicant and respondents, this Tribunal directed the applicant to file a fresh representation before the official respondents along with a copy of the succession certificate issued by the Additional District Judge, Bayana, District Bharatpur. In the event of filing of such a representation, this Tribunal directed the official respondents to examine the representation as well as the succession certificate issued in

favour of the applicant and then decide the representation by a speaking and reasoned order according to the provisions of law within a period of three months from the date of receipt of the representation. It was also made clear that the applicant would be at liberty to file substantive OA, if any prejudicial order is passed by the respondents.

4. Annexure A/1 order dated 08.10.2013 is passed by the respondent no. 2 pursuant to the directions issued by this

Tribunal vide order dated 22.04.2013 in OA No. 496/2011.

The respondent no. 2 considered the contentions of the applicant in detail and perused the relevant documents.

The respondent no. 2 vide Annexure A/1 found that the succession certificate obtained by the applicant is without impleading Smt. Prem Devi (respondent no. 4) as a party-respondent. In the circumstance, the respondent no. 2 vide

Annexure A/1 directed the applicant to obtain fresh succession certificate from the competent court by impleading Smt. Prem Devi as a party-respondent and further directed to produce such a certificate to the office for further action.

5. After the death of the deceased employee Shri Chhitariya, both the applicant and Smt. Prem Devi (respondent no. 4) claimed the retiral benefits of the deceased employee. The applicant approached the official

respondents seeking the disbursement of the retiral benefits claiming that she is the legally wedded wife of deceased employee Shri Chhitariya. The respondent no. 4, Smt. Prem Devi, also approached the official respondents with the very same contentions claiming that she is the legally wedded wife of deceased employee Shri Chitariya. The departmental authorities directed both the applicant and the respondent no. 4 (Smt. Prem Devi) vide letter dated 08.03.2001 to approach the competent court for obtaining the succession certificate by impleading applicant and Smt. Prem Devi as party-respondent in their respective cases as there was a dispute of two wives and directed them to produce the succession certificate before the department for disbursement of payment.

6. In the year 2002, Smt. Prem Devi (respondent no. 4) and her son Shri Prahlad filed S.B. Civil Writ Petition No. 7614/2002 before the Hon'ble High Court of Judicature for Rajasthan, Jaipur Bench, Jaipur seeking a direction directing the respondents to pay the petitioners all the pensionary benefits and further prayed for quashing the succession certificate issued by the learned Additional Sessions Judge, Bayana. The Hon'ble Rajasthan High Court vide order dated 09.01.2009 (Annexure A/5) dismissed the writ petition being not maintainable observing that the petitioners shall have to first approach the Central Administrative Tribunal. The Hon'ble Rajasthan High Court further observed that the

petitioners may directly make an application before the Tribunal with their submission regarding delay giving all these reasons so as to take advantage of Section 5 as well as Section 14 of the Limitation Act, 1963 read with Section 21 of the Administrative Tribunals Act, 1985.

7. Though the Hon'ble Rajasthan High Court, Jaipur Bench directed the 4th respondent (Smt. Prem Devi), who was one of the petitioners in S.B. Civil Writ Petition No. 7614/2002, to first approach the Central Administrative Tribunal, the respondent no. 4 (Smt. Prem Devi) failed to file any Original Application claiming the reliefs as sought before the Hon'ble Rajasthan High Court.

8. The applicant filed OA No. 496/2011 before this Tribunal seeking a direction directing the respondents to sanction the family pension w.e.f. 27.11.2000 with arrears in her favour and also prayed for disbursement of the retiral benefits of her husband. This Tribunal disposed of the OA vide order dated 22nd April, 2013 (Annexure A/7). This Tribunal directed the applicant to file a fresh representation before the official respondents along with a copy of the succession certificate issued by the Additional District Judge, Bayana, District Bharatpur. On the basis of the representation submitted by the applicant and pursuant to the directions issued by this Tribunal, Annexure A/1 order

dated 08.10.2013 was happened to be passed by the respondent no. 2, which is under challenge in this OA.

9. This Tribunal issued notice to the respondent no. 4 (Smt. Prem Devi) in this OA, but Smt. Prem Devi failed to appear before this Tribunal. No contentions are raised by the respondent no. 4 claiming the retiral benefits of deceased employee Shri Chhitariya. Moreover, the respondent no. 4 did not approach the Tribunal at any point of time though there was a specific direction issued by the Hon'ble Rajasthan High Court, Jaipur Bench vide order dated 09.01.2009 in S.B. Civil Writ Petition No. 7614/2002 to first approach the Central Administrative Tribunal claiming the pensionary benefits / retiral benefits. The respondent no. 4 also did not approach the competent court seeking issuance of the succession certificate.

10. Be that as it may, the applicant, Smt. Narangi Devi filed a regular civil suit no. 53/2001 before the Additional District Judge, Bayana, District Bharatpur for issuance of the succession certificate, which was issued in favour of the applicant vide order dated 31.07.2002 (Annexure A/4). The court of Additional District Judge, Bayana in regular civil suit no. 53/2001 held that the applicant is the successor of deposited money amounting to Rs. 2,13,972/- of her deceased husband Chhitariya. The learned court also declared that the applicant is the successor of deceased

Chhitariya to get the amount of retiral benefits. The applicant also approached this Tribunal by filing OA No. 496/2011 seeking the reliefs as noticed above. She also produced the said succession certificate along with that OA.

11. It is true that the succession certificate was obtained by the applicant without impleading respondent no. 4 (Smt. Prem Devi) in the array of the party-respondent. Vide order dated 09.01.2009, the Hon'ble Rajasthan High Court, Jaipur Bench in S.B. Civil Writ Petition No. 7614/2002 filed by the respondent no. 4, directed the respondent no. 4 to approach the Central Administrative Tribunal for the reliefs claimed in the Writ Petition. In spite of specific direction issued by the Hon'ble Rajasthan High Court, Jaipur Bench on 09.01.2009, the respondent no. 4 has not approached the Tribunal seeking any reliefs at any point of time. Moreover, she failed to approach the competent court seeking issuance of succession certificate in her favour. In the said Writ Petition filed by the respondent no. 4, she also prayed for quashing the succession certificate issued by the learned Additional Sessions Judge, Bayana in favour of the applicant. The Hon'ble Rajasthan High Court, Jaipur Bench directed the respondent no. 4 to approach the Central Administrative Tribunal for the said relief also but she failed to approach the Tribunal either seeking the disbursement of retiral benefits in her favour or for setting aside the succession certificate issued in favour of the applicant, Smt. 8

Narangi Devi. In the light of the said facts, the succession certificate issued in favour of the applicant holds the field, has become final and, therefore, is binding on the official respondents as well as respondent no. 4. In the light of the said facts and circumstances, the respondent no. 4 is not entitled to claim any right over the assets of the deceased employee Shri Chhitariya.

12. Though an opportunity was given to the respondent no. 4 to appear and contest the claim of the applicant in this OA then also the respondent no. 4 failed to appear either opposing the claim of the applicant or raising her claim.

13. In Annexure A/1 order dated 08.10.2013, the official respondents have took a note of the fact that deceased employee Shri Chhitariya had nominated the applicant, Smt. Narangi Devi (wife) again on 28.11.1991 to draw 100% amount of GPF. In the light of the fact that the deceased employee nominated the applicant to receive the amount of GPF and in view of the successions certificate issued by the competent court in favour of the applicant, the applicant is entitled to get the retiral benefits on account of death of her husband.

14. For all these reasons, as noticed above, the respondent no. 4, Smt. Prem Devi, is not entitled to claim the retiral

benefits due to the deceased employee Shri Chhitariya including the family pension.

15. In the facts and circumstances of the case, as noticed above, Annexure A/1 order dated 08.10.2013 is hereby set aside and the respondent nos. 2 & 3 are directed to release all the retiral benefits of deceased employee Shri Chhitariya in favour of the applicant, Smt. Narangi Devi. Appropriate orders may also be passed by the respondent no. 2 & 3 allowing her to draw the benefits of family pension on account of death of her late husband Shri Chhitariya. The respondent nos. 2 & 3 shall release/ disburse the retiral benefits to the applicant within a period of two months from the date of receipt of a copy of this order. The respondent nos. 2 & 3 are further directed to release / disburse the benefit of the family pension with arrears in favour of the applicant without any further delay at any rate within a period of three months from the date of receipt of a copy of this order. The applicant shall furnish a copy of this order along with a copy of this OA to the respondent nos. 2 & 3 within a period of ten days from today.

16. The Original Application is, therefore, allowed to the extent indicated above. There shall be no order as to costs.



(JUSTICE HARUN UL-RASHID)

JUDICIAL MEMBER

Kumawat