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Central Administrative Tribunal
Jabalpur Bench

OA No.125/05

Jabalpur, this the 26th day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

Smt.Y.Jayalakshmi
W/o late Shri Y.Prakasham
Family Pensioner & unemployed
Residing at Rly.Qrs. No.17-A/2-3
Bungalow Yard, Railway Colony
Bilaspur - 495 001 (CG).

Applicant

(By advocate Shri B.P.Rao)

Versus

1. Union of India
Through the General Manager
South East Central Railway
Bilaspur Zone, G.M.Office
PO Bilaspur.
2. The Divisional Railway Manager
South East Central Railway
Bilaspur Division, DRM Office
Bilaspur.
3. The Sr.Divisional Personnel officer
South East Central Railway
Bilaspur Division, DPO Office
Bilaspur.
4. The Estate Officer
South East Central Railway
Bilaspur Division
Bilaspur.
5. Smt.Y.Sarojini
W/o Late V.Prakasham
(PO) Arikathota
Rambhadrapuram Mandalam
District Vizianagaram (AP).

Respondents.

(By advocate Shri M.N.Banerjee)

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ORDER

By A.K.Gaur, Judicial Member

The applicant has sought a direction to respondents to furnish all the documents submitted by respondent No.5 Smt.Y.Sarojini in support of her claim, so that she can approach competent court to get a succession certificate and till the succession certificate is obtained, the applicant be allowed to draw family pension and to reside in the railway quarters.

2. Applicant is the second wife of late Y.Prakasham who was a railway employee. When Y.Prakasham was alive, he declared the applicant and her two children as family members in all official records and he also executed nomination forms in favour of the applicant for receiving all the service benefits and pension. According to applicant, Smt.Y.Sarojini (the respondent No.5) who is the first wife of deceased employee, remarried and on her remarriage, forsake all her claim over the service benefits by executing a relinquishment deed (withdrawal claim) in 1997. Accordingly on the basis of the relinquishment deed produced by Smt.Y.Sarojini (A-2) as well as the legal heir certificate produced by applicant (A-1), the applicant received all settlement dues of late Y.Prakasam and was also drawing pension ever since. While so, Smt.Sarojini (respondent No.5), claiming to be the legally wedded wife of the deceased, also came forward with her claim for payment of settlement dues and compassionate appointment. In the meantime, the applicant submitted an application for employment assistance on compassionate ground, which was not agreed to by respondents for want of succession certificate. The applicant made representations to the respondents in this regard after approaching the High Court of Chhattisgarh, but no action has been taken by them. Hence this OA.

3. According to applicant, the respondents are contemplating eviction of the applicant from railway quarters and stoppage of family pension for want of succession certificate in view of the claim made by the first wife of deceased.

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4. Learned counsel for the applicant argued that the first wife Smt. Sarojini had already forsaken her claim over the service benefits in view of her divorce from deceased employee and remarriage with another man and she had also executed a relinquishment deed in favour of applicant. The Railway Administration had already accepted this deed and thus paid all service dues to applicant and also sanctioned family pension. According to him, it is a settled matter which cannot be unsettled now. The respondents' demand for succession certificate for continuing the family pension after a lapse of 6-7 years is highly irregular and illegal. The counsel also argued that applicant is entitled to be treated as the only legally wedded wife of deceased for all benefits including family pension and compassionate appointment.

5. In their reply, the respondents stated that the applicant had submitted a legal heir certificate and on that basis, settlement dues of deceased were paid to the applicant. While processing the compassionate appointment claim of applicant, another claimant i.e. Smt Y. Sarojini also got into the dispute, claiming to be the first legally wedded wife of deceased. They further submitted that the applicant had failed to produce any document to the effect that deceased employee's first marriage was dissolved. While executing nomination papers, deceased employee had suppressed the fact that he had married another lady, namely Sarojini and hence legally the right of first wife could not be denied unless the first marriage was dissolved by a decree of divorce. All service dues of deceased employee as well as family pension had been paid to applicant on the basis of documents submitted by her after the death of deceased and at that time, the genuineness of said documents was not in dispute and when first wife approached respondents with her claim, the dispute arose and an explanation was sought from applicant. Applicant had failed to submit any explanation as to the veracity of marriage or divorce between first wife and deceased employee. Respondents further submitted that the first wife of deceased employee had raised

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an allegation that the applicant had claimed terminal dues and pension by submitting forged documents.

6. We heard learned counsel for the parties and perused the pleadings.

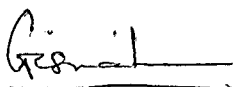
7. On careful perusal of the pleadings and after hearing learned counsel for both sides, we notice that deceased employee had executed a nomination form in favour of applicant, while he was in service. Therefore the respondents were fully justified in releasing the terminal benefits and pension to applicant. The said benefits were released by the respondents on the basis of documents submitted by applicant after the death of her husband. This fact has not been disputed by either party. The genuineness of the documents had not been disputed at that time. Subsequently respondent No.5 claiming to be legally wedded wife of deceased employee had submitted an application (R-3) seeking terminal dues and compassionate appointment on death of her husband. Her claim had also been supported by production of marriage certificate (R-1). Respondents had released the terminal dues of deceased employee as well as pension to applicant because there was no dispute at that time and when alleged first wife came forward to stake her claim with supporting documents, a show cause notice dated 7.2.03 was issued to applicant seeking her explanation. Applicant had submitted her explanation on 14.2.2003 along with the documents in order to support her claim that the deceased had divorced his first wife. It is also seen that applicant and respondent No.5 were required to produce a succession certificate from a competent court of law in terms of letter dated 16.9.03 (A-6) to process their claim. We do not find any illegality in the action of the respondents in issuing letter dated 29.12.04 (A-4) asking her to submit an explanation. These letters dated 14.2.2003 & 16.9.2003 do not suffer from vice of principles of natural justice or fair play. We are of the considered opinion that the OA is devoid of merits and force. However, in the interest of justice, we direct the respondents to furnish the applicant the copies of documents submitted by respondent No.5 in support of her claim, as

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stated in letter dated 7.2.03 (A-4) and 29.12.04 (A-12). Accordingly we direct the respondent No.3 to provide the documents as claimed in the letter dated 7.2.03 (A-4) and 29.12.04 (A-12) by the applicant, within a period of one month from the receipt of the copy of this order, provided the applicant gives an application in this regard within a week from receipt of the copy of this order, so that the applicant may approach the competent court for issue of succession certificate.

8. With above directions, OA is disposed of. No costs.


(A.K. Gaur)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

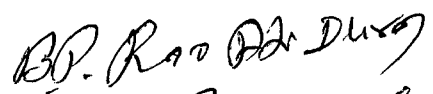
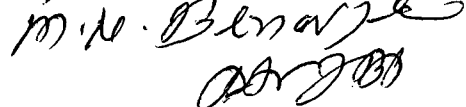

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पूरांकन सं ओ/न्या.....जबलपुर, दि.....

पतिविविध आदेशिका:-

- (1) सतिव, उच्च न्यायालय नगर एम/ए/एन, जबलपुर
- (2) आदेशक ओ/न्यायालय/न्यायालय काउंसल
- (3) प्रत्यक्षी ओ/न्यायालय/न्यायालय काउंसल
- (4) न्यायालय, न्यायालय, जबलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु
उप रेजिस्ट्रार

Issued
on 3/1/17


3/1/17
