

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 330 of 2005

Jabalpur, this the 31st day of August, 2005

Hon'ble Shri Madan Mohan, Judicial Member

Smt. Dulari Bai, aged about 50 yrs.,
Widow of late Tularam Parm. Ex-Watchman.
Rly. Sttio, Sagar (Engg. Deptt.) Resident of
C/o. Parash Ram Pandey, Near Khermai
Lakhera, Katni, Distt. Katni (MP).

.... Applicant

(By Advocate – Shri H.S. Verma)

V e r s u s

1. Union of India, through General Manager,
West Central Railway, Jabalpur.
2. General Manager, West Central
Railway, Jabalpur.
3. Divisional Rail Manager,
DRM's Office, West Central Railway,
Jabalpur. Respondents

(By Advocate – Shri S.P. Sinha)

O R D E R (Oral)

By filing this Original Application the applicant has claimed the following main reliefs :

"(i) to declare the applicant entitled for grant of family pension w.e.f. 6.7.1993 onwards on account of death of her husband,

(ii) to direct the respondents to issue family pension payment order to the applicant w.e.f. 6.7.1993,

(iii) to further direct the respondents to make the payment of family pension to the applicant w.e.f. 6.7.1993 alongwith interest thereon @ 18% per annum from the date of entitlement till the date of actual payment."



2. The brief facts of the case are that the applicant is the widow of late Tularam Param who was employed as Watchman under the respondents department and he retired on 15th March, 1993. Unfortunately he expired on 6th July, 1993. The applicant made several representations to the respondents for granting her family pension and the last such representation is made on 26th June, 2001. The respondents denied the family pension to the applicant on the plea of an affidavit filed by the husband of the applicant dated 26.10.1992 wherein he has mentioned that the applicant has gone with someone else. The applicant is the legally wedded wife of the deceased employee and she is entitled for the family pension. The applicant is unaware of the said affidavit. There is no judicial separation between them. She continued to live with her husband and her son Hariram. Therefore, the impugned order Annexure A-1 is illegal and un-constitutional and the same deserves to be quashed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the applicant is the legally wedded wife of the deceased Government servant and the respondents themselves have filed Annexure R-1 which is an affidavit of the deceased employee Tularam in which he has admitted that the applicant Smt. Dulari Bai is his wife but she has left him and has gone with some another person. Hence, the deceased employee has accepted this fact that the applicant is his wife. The learned counsel for the applicant has drawn my attention towards the order passed by the Hyderabad Bench of the Tribunal in OA No. 256/2003 dated 29th April, 2004 in the case of Smt. Pillelli Tirupathamma Vs. The Chief Mechanical Engineer, S.C. Rly., Guntapall and Ors. in which it is held by the Tribunal that the family pension denied on the ground that the deceased employee before his expiry had declared that his wife had deserted him and living with another one who is a car driver – Nothing to show that applicant was



legally remarried – So long as there is no legal re-marriage widow or widower is entitled to family pension. The respondents could not prove this fact that the deceased employee late Tularam had re-married in his life time. He further argued that Hariram the son of the deceased employee also accepted that the applicant is his mother and in the order passed by the Civil Judge dated 15th July, 2004 it is mentioned that the employer has to decide the fact of family pension etc. on the basis of the nomination. As the applicant is the legally wedded wife she is entitled for the reliefs claimed. Hence, this Original Application deserves to be allowed.

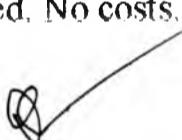
5. In reply the learned counsel for the respondents argued that as per form No. 6 enclosed with the reply at Annexure R-2 dated 6.7.1992 the name of Hariram, 22 years as son of the Government servant is only mentioned. In this form the name of the applicant is not mentioned as the wife of the deceased employee. He further argued that the Civil Judge has passed the order and in which both the applicant as well as her son were parties. The Civil Judge granted the certificate of succession only in favour of the son of the deceased Government servant and not in favour of the applicant. It was specifically mentioned by the civil court that there is no reasonable ground to issue succession certificate in favour of the applicant. The applicant has not filed any appeal against the aforesaid order of the Civil court dated 15th July, 2004. Hence, this order has become final. So far as the order of the Hyderabad bench of the Tribunal is concerned, in that case no succession certificate was issued in favour of the son as is in the present case, by the competent court. Thus the OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, I find that the Civil court has granted succession certificate only in favour of the son of the deceased Government servant i.e. Shri Hariram vide order dated 15th July, 2004. It



was specifically mentioned in the said order that there is no reasonable ground to issue succession certificate in favour of the applicant. I also find that the applicant has not filed any appeal against this order of the Civil court. Thus, she has accepted this order which is passed by the Civil court and now this order has become final. I have also perused Annexure R-2 dated 6th July, 1992 in which the name of only Hariram is mentioned as son of the deceased Government servant. In this form the name of the applicant not mentioned. I have further perused the order passed by the Hyderabad Bench of the Tribunal referred to by the applicant and find that in this order the fact of issuance of succession certificate by the competent Civil court has not been mentioned. Hence, this order seems to be distinguishable and not applicable in the present case.

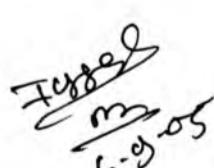
7. Considering all the facts and circumstances of the case, I feel that this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.


(Madan Mohan)
Judicial Member

प्रतावन सं ओ/न्या जवलपुर, दि
 प्रतिलिपि लग्ने रिक्त
 "SA" (1) संविध. उद्या ग्राम नाम वासी उपरिकृत, जवलपुर
 (2) आकेकक श्री/श्रीमती/दूज के काउंसल
 (3) प्रत्यार्थी श्री/श्रीमती/दूज के काउंसल
 (4) ग्रामपाल, रोपण, जवलपुर जनाधीश
 सूचना एवं आवश्यक वार्तालाई देतु

उप रजिस्ट्रार

H. S. V. M. & P. V. K. M. 6-9-05
 P.M. 6-9-05 → P. V. K. M. 6-9-05
 B. P. S. 6-9-05


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