

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BE.
CIRCUIT COURT SITTING AT GWALIOR

Original Applications No 1100 of 2004

Indore this the 18th day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. Ghan Shyam Pathak, S/o Late Shri Ganesh Prasad
Age -74 years, Occupation Business,
R/o Agrawal Dadan, Behind Bharat Talkies,
Sinde Ki Chhawani, Lashkar, Gwalior, (M.P.).
2. Smt. Ram Shree W/o Shri Ghan Shyam Pathak
Age -70 years, Occupation -Housewife,
R/o Agrawal Dadan, Behind Bharat Talkies,
Sinde Ki Chhawani, Lashkar, Gwalior, (M.P.).
3. Gaurav Pathak, S/o Shri Ghan Shyam Pathak
Age -29 years, Occupation - Student ,
R/o Agrawal Dadan, Behind Bharat Talkies,
Sinde Ki Chhawani, Lashkar, Gwalior, (M.P.).
4. Deepak Pathak, S/o Shri Ghan Shyam Pathak
Age -21 years, Occupation - Student ,
R/o Agrawal Dadan, Behind Bharat Talkies,
Sinde Ki Chhawani, Lashkar, Gwalior, (M.P.).
5. Vishwas Pathak, S/o Shri Ghan Shyam Pathak
Age -26 years, Occupation - Student ,
R/o Agrawal Dadan, Behind Bharat Talkies,
Sinde Ki Chhawani, Lashkar, Gwalior, (M.P.).
6. Ku. Savita Pathak, D/o Shri Ghan Shyam Pathak
Age -26 years, Occupation - Student ,
R/o Agrawal Dadan, Behind Bharat Talkies,
Sinde Ki Chhawani, Lashkar, Gwalior, (M.P.). Applicant

(By Advocate - Shri Dharmendra Nayak on behalf of
Shri M.P.S. Raghuvanshi)

V E R S U S

1. The Union of India Through the Secretary,
Deptt. of Railways, New Delhi.



2. The Divisional Railway Manager, Bhopal (MP)

3. Smt. Mamta Pathak, Wd/o Late Shri Jugal Kishor
Pathak R/o Prathvi Nagar, Sirol Road,
Morar Gwalior (M.P.)

Respondents

(By Advocate – Shri Raja Sharma on behalf of Shri V.K. Bhardwaj
for official respondents.
Shri V.K. Shrivastava for respondent No.3)

ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs:-

“(i) That, the respondents be directed to make payment of the GPF, Gratuity, Provident Fund, Insurance Amount on account of death of late Shri Jugal Kishor Pathak to the applicants.

(ii) That the applicant No.1 & 2 being father and mother of deceased Shri Jugal Kishore Pathak, be directed to be extended benefit of pension.

(iii) That it may be held that the respondent No.3 being an accused in the case of suicide of late Shri Jugal Kishor Pathak, is not entitled to receive any benefit from the service benefits of late Shri Jugal Kishore Pathak.

(iv) That the applicant No.4 be directed to extended benefit of compassionate appointment on a suitable post according to the qualification held by the applicant.

2. The brief facts of the case are that the applicant No. 1 and 2 are the father and mother and applicants No. 4 to 6 are the brothers and sister and the private respondent No.3 is wife of late Shri Jugal Kishore, who was working with the respondent-railway as Goods Driver. He committed suicide on 24.10.2004 at Gwalior and he died in ICU, J.A. Group of Hospitals, Gwalior. The reasons of his suicide was the harassment and cruelty of his wife. After the death of Shri Jugal Kishor Pathak, a criminal case has been registered against the private respondent No.3 and investigation is in progress. Before the death of Government servant, he has lodged one complaint against his wife



regarding cruelty and harassment on 8.9.2003 (Annexure-A-2) and he had applied for changing the nominee in his insurance policy (Annexure-A-3). The father of the deceased Government servant has moved applications Annexures-A-4 and A-5 requesting for making payment of deceased Government servant in his favour. Till now the respondents have not taken any decision. Hence, this OA.

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

4. It is argued on behalf of the applicant that due to cruelty and harassment of respondent No.3 Late Shri Jugal Kishor had committed suicide on 24.10.2004. In this regard a criminal case under Section 306/34 is pending against the private respondent. Therefore, the private respondent No.3 is not entitled for any retiral benefits of the deceased Government servant. The applicants No.1 and 2 are the parents of the deceased Government servant and applicants No. 4 to 6 are the real brothers and sister. Hence, they are entitled for reliefs claimed.

5. In reply, the learned counsel for the private respondents No.3 argued that the private respondent No.3 is the legal wife of late Shri Jugal Kishor Pathak and her three daughters. They are legal successor falling within the category of Class-I successor under the Hindu Marriage Act. Therefore, they are entitled to receive the terminal benefits of the deceased Government servant. The learned counsel further argued that the applicants have concealed this fact that the deceased Government's servant has three daughters. The learned counsel for the respondent No.1 and 2 has argued that the respondents have no relevance on what reason late Shri Jugal Kishor Pathak has committed suicide. The retiral dues are withheld till the conclusion of criminal case pending and it will be given as per rules to the family members. He further argued that the applicants No.3 to 6 have no locus-standy to file the application as they were not dependent upon



the deceased Government servant and they does not fall under the class-I legal heirs.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the private respondent No.3 is the legal wife of the deceased Government servant. A criminal case under Section 306/34 is pending against the private respondent 3, but there is no adverse allegations against the three daughters of the deceased government servant, who are legal heirs and come in the category first of legal heirs according to Indian Succession Act. We further find that the parents, brothers and sister of the deceased government servant do not fall within the category first of legal heirs. Hence, the applicants are not entitled for any reliefs claimed by them. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

M.P.Singh)
Vice Chairman

पृष्ठान्कन सं ओ/व्या.....जवल्पुर, दि.....

परिवर्तित

- (1) सविता, उमर २५ वर्ष, ...
- (2) आर्यभट्ट, उमर २० वर्ष, ...
- (3) प्रतापसिंह, उमर २२ वर्ष, ...
- (4) ...

सूचना एवं जागरूकता

अभिहित

M.P.S. Raghuramanghi Dargah
V.K. Bhavdwar Dargah
V.K. Shrivastava Dargah

~~Forced~~
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8-11-55