

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 392/2013

Order reserved on : 30.10.2014

Date of Order: 5.11.2014

CORAM

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Manju Kumari Meena, daughter of late Shri Natholi Ram Meena, wife of Shri Mansingh, aged about 25 years, resident of Village Khirani, Post Randhirgarh, Tehsil Bhusawar, District Bharatpur (Raj.).

.....Applicant

(By Advocate Mr.M.S.Gurjar)

VERSUS

1. The Union of India through its General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, State Entry Road, New Delhi-110055.
3. Senior DPO, Northern Railway, State Entry Road, New Delhi-110055.
4. Aayushi Meena D/o late Shri Natholi Ram Meena, aged about 13 years, R/o Mohalla Bagar Ka Baas, Near Police

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Line, Alwar, Rajasthan through her legal and natural guardian Smt. Madhubala.

5. Smt. Madhubala, wife of late Shri Natholi Ram Meena, R/o Mohalla Bagar Ka Baas, Near Police Line, Alwar, Rajasthan.

.....Respondents

(By Advocates Mr.M.K.Meena for R-1 to 3
and Ms. Kavita Bhati for R-4 and 5)

ORDER

The present OA has been filed by the applicant praying for the following reliefs:-

8. It is humbly prayed that looking to the over all facts and circumstances of this case, this Hon'ble Tribunal be pleased to allow this OA, call for the entire record, examining the same and action of the respondents whereby not releasing terminal benefits as well as compassionate appointment to the applicant in lieu of her father's death may kindly be declared null and void and further be quashed and set aside and further be directed the respondents to release the terminal benefits with 18% interest per annum to the applicant in lieu of her father's death and further be directed to consider her case for compassionate appointment as early as possible.

Any other order which this Hon'ble Court considers fit and proper in the facts and circumstances of the case may kindly be issued in favour of the applicant.

2. The brief facts of the case as stated by the learned counsel for the applicant are that the father of the applicant namely Shri Natholi Ram Meena was initially appointed with the respondent department vide order dated 26.2.1982 and subsequently also confirmed in the same Department.

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3. That her father expired on 6.11.2012 while in service.

Before his death he served with the respondent department for more than 30 years which is the qualifying service for the purpose of Family Pension, Gratuity and other terminal benefits to his legal heir.

4. That the father of the applicant married with Smt.Nangi, alias Ginni Devi who also expired prior to the death of the father of the applicant. The applicant is the only daughter to her parents. Therefore, she is the only successor to get the terminal benefits as well as compassionate appointment.

5. That she being the only legal successor submitted her claim for seeking terminal benefits as well as compassionate appointment before the respondent department.

6. However, the claim of the applicant could not be considered by the respondents stating that another lady namely Smt. Madhu is also a claimant of the terminal benefits of her husband showing her as 2nd wife of the deceased i.e. the father of the applicant. That the father of the applicant did not marry to another lady in his life time.

She not only submitted the representation but also served a notice of demand of justice through her counsel on 16.4.2013 by Registered Post but respondents have not considered the grievance of the applicant. The applicant in the OA has also stated that looking to the above factual scenario as well as documents placed on record the question

arises for consideration before this Hon'ble Tribunal is that "as to whether the applicant is only legal successor to get the terminal benefits as well as compassionate appointment in lieu of her father's death with interest of 18% per annum or not?" for deciding the same the applicant wants to submit this OA.

7. The official respondents have submitted the reply. They have raised the preliminary objection with regard to the jurisdiction of this Tribunal. They have stated that since the orders have been passed by the Northern Railway where the employee was posted, therefore, the jurisdiction of the present matter lies at Delhi. Therefore, the present OA deserves to be dismissed on the ground of jurisdiction alone.

8. However, in reply to the facts of the case they have stated that the father of the applicant had served for 26.5 years and not 30 years as he availed leave without pay of 1574 days which had to be deducted from the qualifying service (Annexure R/1).

9. The respondents have further stated that the father of the applicant solemnized two marriages. The applicant was her daughter from first marriage. Shri Natholi Ram Meena (father of the applicant) had another daughter Aayushi from his second marriage with Madhubala which he had mentioned in IC & WLI report(Annexure R/2). Therefore, it

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would be wrong to call the applicant as the only successor of Shri Natholi Ram Meena.

10. The respondents further submitted that the second wife of Shri Natholi Ram Meena had submitted a request for compassionate appointment for her daughter on 3.12.2012(Annexure R/3). Thus there is a dispute about the legal successor of the deceased Shri Natholi Ram Meena.

11. Private Respondents No.4 and 5 have also filed their reply. They have stated that the applicant has tried to deny the legal rights of the respondents No.4 and 5 on misleading the facts and grounds. They have admitted that Smt. Ginni Devi was the first wife of the deceased and she died in the year 1998. That the applicant Smt. Manju Kumari Meena is the daughter from the first wife. After the death of Smt. Ginni Devi, Shri Natholi Ram Meena married the respondent No.5 (Smt. Madhu Meena) at Alwar on 18.2.1999. In the year 2000 Aayushi Meena was born from the second wife who is impleaded as respondent No.4. The applicant was in the knowledge of this fact but while presenting the present OA she has concealed this vital fact before the Tribunal.

12. That the applicant is married to Shri Man Singh Meena and having one son and two daughters. She is financially sound. Further the applicant is not even a dependent on the deceased and is not the only successor to the deceased.

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13. That on the death of Shri Natholi Ram Meena, respondent No.5 applied for the terminal benefits of the deceased and compassionate appointment for her daughter. Therefore, the present OA has no merit and it should be dismissed with costs.

14. Heard the learned counsel for the parties and perused the documents on record. From the perusal of pleadings of the applicant it is clear that there is dispute with regard to the succession of the deceased employee Shri Natholi Ram Meena. The learned counsel for the official respondents submitted that the question of succession cannot be decided by this Tribunal. It is a civil matter and, therefore, only the competent court can decide with regard to the legal successor of the deceased Shri Natholi Ram Meena. The learned counsel for the respondents submitted that they are willing to pass an appropriate order with regard to release of retiral benefits and with regard to the compassionate appointment after they receive a proper succession certificate from the competent court. The learned counsel for the applicant also agreed with the suggestion of the learned counsel for the official respondents that this Tribunal cannot decide on the question as to who is the legal successor of the deceased Shri Natholi Ram Meena and which is for the Civil Court to decide the issue of succession.

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15. Therefore, it is for the applicant and the private respondents No.4 and 5 to approach the appropriate forum for the issue of a succession certificate. After the succession certificate is issued by the competent court and if either party or both parties approach the official respondents with the said succession certificate, then the respondents are expected to pass appropriate orders according to the provisions of law on the prayer of respective parties.

16. At this stage no relief can be given to the applicant in the present OA. Therefore, the OA is disposed of with the above observations with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBEDR

Adm/