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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00678/2014
Chandigarh, this the 11th Day of March, 2015

...
CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A).
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J).

...
Mandeep Kaur D/o Sh. Balwinder Singh, W/o Late Sh. Kashmir Singh, R/o 141, Ward No.2, Preetnagar, Near Sherawala Gate, Bassi Pathana, District Fatehgarh Sahib, Punjab.

...APPLICANT

VERSUS

1. Union of India, through Secretary to Government of India, Ministry of Telecommunication, New Delhi.
2. Bharat Sanchar Nigam Limited, through its General Manager, Punjab Circle, Sector 34, Chandigarh.
3. General Manager, Telecom, Bharat Sanchar Nigam Limited, Circle Office, Pathankot, District Gurdaspur.
4. Sukhwinder Kaur, alleged wife of Sh. Kashmir Singh, R/o Village Dalla, Tehsil Batala, District Gurdaspur, Punjab.

...RESPONDENTS

Present: Sh. A.D.S. Bal, counsel for the applicant.
Sh. D.R. Sharma, counsel for the respondents no.2 & 3.
None for respondent no.4.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

"8 (ii) Impugned communications Annexures A-17 and A-19 may kindly be quashed and consequently a direction be issued to the respondents to release retiral benefit in respect of Late Sh. Kashmir Singh, in favour of the applicant having three minor children and respondent no.4 in equal share, in accordance with Rule 54 (7) of CCS (Pension) Rules, 1972."

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2. The applicant has claimed that she is the second wife of late Sh. Kashmir Singh, the deceased employee and mother of three children born out of this wedlock and hence the retiral benefits should be released by the respondents in equal shares to her and respondent no.4, who is the first wife of the deceased employee.

3. In the written statement filed on behalf of the respondents no.2 and 3 it has been stated that as per the details of family members submitted by the deceased, name of the wife has been shown as Sukhwinder Kaur and not the applicant. The Department has no knowledge about the claim of the applicant that she is second wife of the deceased employee. It is also stated that once there is a family dispute, it is incumbent upon the legal heirs to get decree/succession certificate from the competent Court of law to establish their claim to the retiral benefits of the deceased employee.

4. In the written statement filed on behalf of respondent no.4, the claim of the applicant that she is the widow of the deceased employee has been rebutted citing provisions of Hindu Marriage Act, 1955 wherein Section 11 of the Act provides that any marriage solemnized after the commencement of the Act shall be null and void and can be annulled against the other party by a decree of nullity if the same contravenes any of the conditions specified in Clauses i, iv and v of Section 5 of the Act.

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Section 5(1) stipulates that the marriage cannot be legally solemnized when either party has a spouse living at the time of such marriage. Therefore, any second marriage during the life time of the first wife is a nullity and has no legal effect. Hence there is no merit in the claim of the applicant that being the second wife of the deceased employee, she is entitled to a share in the retiral benefits of the deceased employee. It has also been denied that respondent no.4 has forcibly taken custody of the children of the deceased employee. The children are her husband's and though respondent no.4 is not their biological mother, she had their custody since childhood and has raised them responsibly and admits that they are entitled to retirement benefits of the deceased as per rules.

5. Arguments advanced by learned counsel for the parties were heard. Learned counsel for the applicant admitted in the course of the arguments that the applicant had also filed a case before the Civil Court relating to issue of her marriage with Sh. Kashmir Singh, deceased employee.

6. Learned counsel for the respondents stated that the department had advised the parties in the matter to submit Succession Certificate so that the pensionary benefits of the deceased employee could be released to the rightful claimant but till date no action has been taken in this regard by the family members of the deceased employee.

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7. We have given thoughtful consideration to the matter. Issues such as validity of the marriage of second wife and her claim to the benefits accruing on the death of the ex-employee are best decided through a Civil Court rather than a forum such as the Tribunal. Hence this O.A. is disposed of with direction to the applicant to establish her claim before the appropriate court of law. No costs.

B. A. AgSawal
(DR. BRAHM A. AGRAWAL)
MEMBER (J)

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(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.
Dated: 11.03.2015.

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