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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/01109/2014

Decided on : 08.10.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

1. Poonam Bains, widow of late Sh. Sanjeev Kumar and daughter of Sh. Faqir Chand.
2. Pratham (minor) son of late Sh. Sanjeev Kumar through his mother and Natural Guardian Poonam Bains.

Both residents of Lamian Mohalla, Phagwara, District Kapurthala, Punjab.

Applicants

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Versus

1. Union of India, Northern Railway, Baroda House, New Delhi, through its General Manager.
2. Divisional Railway Manager, Northern Railway, Ferozepur Cantt.
3. Senior D.P.O., DRM Office, Northern Railway, Ferozepur Cantt.
4. Sr. DM, Northern Railway, Diesel Shed, Ludhiana.

Respondents

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Present: Mr. Anant Modgil, counsel for the applicants
Mr. Rohit Sharma, counsel for the respondents

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

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking direction to the respondents to release the arrears of pensionary benefits, gratuity, leave encashment etc along with appointment in job, with immediate effect in favour of the applicants.

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2. It is stated in the OA that the husband of applicant no.1 and father of applicant no.2, one Sh. Sanjeev Kumar, s/o late Sh. Mohinder Pal, was working as Diesel Cleaner / Khalasi Tech-III, Token No.934, Northern Railway, Diesel Shed, Ludhiana. He expired on 05.09.2011 at Railway Hospital, Ludhiana. However, till date, the respondents had not released any of the death-cum-retiral benefits in favour of the applicants. It is also stated that applicant no.1 Poonam Bains and her husband, late Sh. Sanjeev Kumar, had divorced with mutual consent under Section 13-B of the Hindu Marriage Act on 22.12.2006 but applicant no.1 remarried with Sh. Sanjeev Kumar in 2007 in the presence of Pandit Shiv Narayan on 07.02.2007 and hence the applicants were legally entitled to all benefits arising due to the death of Sh. Sanjeev Kumar. The applicants served a legal notice under Section 80 of CPC dated 03.11.2012 upon the respondents and applicant no.1 through her letter dated 04.01.2013 submitted the Certificate issued by Pandit Shiv Narayan regarding her remarriage. Subsequently, the applicants filed a suit for mandatory injunction under mistaken advice on 30.07.2013 but upon the specific objection of the respondents qua the maintainability of the suit before the Civil Court, the same was withdrawn on 22.07.2014 with a liberty to approach the appropriate forum. Hence this OA.

3. In the written statement filed on behalf of the respondents, it has been stated that applicant no.1 and late Sh. Sanjeev Kumar had divorced as per decree dated 22.12.2006 before the Court of Additional Civil Judge (Sr. Division), Phagwara. Pandit Shiv Narayan had given a statement in his affidavit dated

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08.03.2013 that he never performed remarriage ceremony between Smt. Poonam Bains and Sanjeev Kumar. Accordingly, CWLI/LDH, filled pension papers and other formalities in favour of Smt. Manjeet Kaur, mother of late Sh. Sanjeev Kumar, but no settlement payment has been made so far being disputed case between Smt. Manjeet Kaur and Smt. Poonam Bains divorced wife of late Sh. Sanjeev Kumar. Since applicant no.1 had divorced Sh. Sanjeev Kumar and the plea of remarriage having been found false, she was not entitled to any benefit.

4. Learned counsel for the parties have been heard in the matter. Although the issue of remarriage of Smt. Poonam Bains with late Sh. Sanjeev Kumar is disputed, there is no dispute regarding applicant no.2, Pratham, being the minor son of late Sh. Sanjeev Kumar. As per the Railway Services (Pension) Rules, 1993, the child of a deceased railway employee is entitled to family pension and the respondent Department cannot deny the claim of applicant no.2 in this regard. Hence, the respondents are directed to immediately release 50% of the death-cum-retiral benefits such as dcrg, leave encashment, GPF etc in favour of applicant no.2 and the family pension in full may also be released in his favour. Action in this regard may be completed by the respondent Department within a period of two months from the date of receipt of a certified copy of this order being served upon the respondents. Applicant no.1 can establish her claim to being the wife of the deceased employee at the time of his death through the Civil Court and her claim to 50% of the death-cum-retiral benefits as well as family pension shall hinge on the decision of the Civil Court in this regard. If she

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fails to file her claim before the Civil Court or does not inform the respondents within 06 months regarding filing of such claim the balance 50% of the death-cum-retiral benefits may also be released in favour of applicant no.2.

5. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 08.10.2015

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