

(Reserved on 26.04.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

This the 04th day of *May*, 2018.

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A).

Original Application Number. 330/00899/2015

Smt. Jagwanti Devi, wife of late Kamla (Feeter-1 S. No. 07513) resident of Village Maniyaripur, Post Lohata, Police Station Rohaniya, District Varanasi (U.P).

.....Applicant.

VE R S U S

1. Union of India through its Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager (P), Diesel Loco Motive Works (D.L.W), Varanasi.
3. Finance and Accounts Officer (Pension), Diesel Locomotive Works, Varanasi.

.....Respondents

Advocate for the applicant : Shri Ajay Kumar Singh

Advocate for the Respondents: Shri Atul Kumar Shahi

ORDER

The applicant in this OA claims to be the first wife of Late Kamla, who is the deceased employee of the respondents and she has prayed for quashing of the order dated 15.05.2015 (Annexure A-10) passed by the respondent No. 3 in pursuance of the direction of this Tribunal in O.A No. 190/2015 filed by the applicant earlier. Prayer is also made for a direction to the respondents to grant family pension in respect of her deceased husband late Kamla.

2. The case of the respondents as per the grounds mentioned in the impugned order dated 15.05.2015 while rejecting the case of the applicant for family pension and these reasons are as under:-

- i. The applicant was married to late Kamla, ex- Fitter-I, but in November 1974 the marriage of the applicant with late Kamla was terminated as per the local customs and traditions.
 - ii. Late Kamla married with Smt. Prema Devi in 1981, whose name was indicated by late Kamla in provident fund nomination form. Late Kamla had also entered the name of Smt. Prema Devi in the application form for pension / family pension as his wife.
 - iii. Late Kamla expired on 19.01.2014. Since, for family pension, name of Smt. Prema Devi as his wife was incorporated in the service records of Late Kamla, the family pension was sanctioned by the respondents in favour of Smt. Prema Devi.
 - iv. Civil Court in case No. 990/78 and 425/81 while granting maintenance in favour of the applicant has also observed that the marriage of the applicant with Late Kamla had been terminated as per local customs and tradition.
3. Contesting the contentions of the respondents and claims, the applicant stated in the O.A that Smt. Prema Devi, who died on 12.03.2015 was not legally wedded wife although she was sanctioned family pension till her death on 12.03.2015. It is also the case of the applicant that there is no judgment / decree of divorce passed by the Judicial Court. One petition for divorce being No. 56/1976 had been

filed by the applicant's husband, but the same was withdrawn in 1977 (Annexure A-2). Therefore, the applicant claims to be the legal wife of Late Kamla.

4. Heard Shri Ajay Kumar Singh, learned counsel for the applicant and Shri Atul Kumar Shahi, learned counsel for respondents and considered the pleadings as well as the submissions.

5. The dispute in this case is whether the applicant can be considered to be legally divorced wife of Late Kamla or not. It is the case of the respondents that divorce between the applicant and the deceased employee was in accordance with the local customs and traditions, which was also observed by the Court in the case No. 990/1978. But the respondents have not furnished a copy of the said order in case No. 990/1978 in spite of order dated 01.03.2018 passed by this Tribunal in this O.A. Late Kamla had filed a divorce petition in the Judicial Court, which was subsequently withdrawn in 1977, as stated in para 4.5 of the O.A. This contention has not been specifically contradicted in the counter reply. Further, it appeared from the counter reply that a disciplinary proceeding was initiated by the respondents on the charge of second marriage with out come that Late Kamla was exonerated on the ground that his first marriage was dissolved as per local tradition, which has been observed in maintenance case No. 990/78 also.

6. The fact that there is no divorce order by a competent court of law and the divorce between the applicant and the deceased employee Late Kamla was admittedly as per local customs and traditions, it cannot be said that the divorce between the applicant and Late Kamla is in accordance with the provision of law. The fact that the divorce petition No. 52/1976 was submitted by Late Kamla in the Judicial Court which was subsequently withdrawn by late Kamla vide copy of the order dated 01.09.1977 (Annexure A-2) and the applicant was continuing to get maintenance as per the order of the Judicial Court from time to time, clearly show that the applicant was not legally divorced from late Kamla. It is also noted that there is no document or evidence furnished by the respondents in support of their contention that the applicant was divorced from late Kamla. Hence, the applicant is legally considered to be the wife of Late Kamla.

7. In view of the above, the O.A is allowed. The impugned order dated 15.05.2015 passed by the respondents (Annexure A-10) is quashed and set aside and the matter is remitted to the respondent No. 2 / competent authority to reconsider the case of the applicant for sanction of family pension in favour of the applicant as per provisions of law and in the light of the observations made in this order and communicate the decision to the applicant within a period of three months from the date of receipt of certified copy of this order. No costs.

(GOKUL CHANDRA PATI)
MEMBER- A.

Anand...