

**CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi**

**OA No.3861/2014
MA No.3337/2014**

New Delhi this the 9th day of September, 2016

Hon'ble Mr. V. Ajay Kumar, Member (J)

Smt. Soni Devi
Aged about 58 years
Widow of Late Babu Lal
(Rly. Pensioners) Rtd. Safaiwala Group 'D'
at Delhi Sarai Rohella Railway Station
Northern Railway
Resident of, Pocket 2/115, Dakshin Puri
Ambedkar Nagar, New Delhi -62. - Applicant

(By Advocate: Shri H.P.Chakrovorty for Shri P.S.Khare)

VERSUS

Union of India through

1. The General Manager,
Northern Railway
Baroda House
New Delhi – 01.
2. The Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi – 01.
3. Smt. Sita Devi
R/o Village Pursonipur Kothrana
Police Station Devarai Tehsil Haras
District Chhapra (Bihar)
(To be served through Divisional Personnel
Officer Divisional Office, Northern Railway,
New Delhi.) -Respondents

(By Advocates: Shri Amit Kumar)

O R D E R (Oral)

Mr. V. Ajay Kumar, Member (J):

Heard both sides.

2. One Shri Babu Lal, who was working as Safaiwala under the 2nd respondent retired from service on attaining the age of superannuation on

30.04.2009. Thereafter, while drawing pension he died on 02.08.2009. After his death, the applicant, who is the wife of the said deceased employee made a representation to the respondents to grant family pension to her. The respondents though initially vide Annexure A-1 dated 03.09.2013 while stating that maintenance case is pending between the deceased employee and the applicant and at the time of retirement the deceased employee had not mentioned the applicant's name in the pension papers as his family member, advised her inform about the final orders of the court to take further action in the matter.

3. In the maintenance order on applicant's interim maintenance application filed under Section 125 Cr. P.C. an order was passed on 02.03.2010 directing the deceased employee to pay Rs.1200/- p.m. as monthly maintenance to each of the petitioners (Total Rs.4800/- p.m.) i.e., applicant and her 3 children. It is submitted by the applicant's counsel that since the applicant and her children were residing separately from the deceased employee, due to estrayed relationship, neither she was aware, nor anybody informed the Court about the death of her husband. As a result, the Court has passed order dated 02.03.2010 granting maintenance to them. Thereafter, the applicant along with her representation for grant of family pension submitted the necessary documents, in proof of the relationship of wife and husband between her and the deceased employee including Judgment/Order dated 02.03.2010, Death certificate of the deceased employee, Ration Card, Election ID & Aadhaar Cards, School Certificate of one daughter Seema etc. (Annexure A-3 colly). In the Ration Card, Voter Card and Aadhaar card, the school certificate of the applicant's daughter showing the name of the deceased employee as husband of the applicant. Thereafter the respondents though initially wanted a copy of the

Court Order, vide Annexure A-2 informed that her husband has not mentioned her name in the list of family members and also directed to produce the succession certificate issued by the Court of Law, to enable them to grant family pension. Surprisingly, the said letter addressed not only to the applicant but also to one Smt. Sita Devi, about whom the applicant has no knowledge.

4. The learned counsel for the applicant submits that the applicant is the legally wedded wife of the deceased employee and various documents proving their relationship were submitted for consideration of the respondents. On the other hand, the learned counsel for the respondents submits that late Shri Babu Lal, the deceased employee, nowhere in the service record at any point of time informed that the applicant is his legally wedded wife and family members statement also does not contain any name. Further, the Uttariya Railway Mazdoor Union (Annexure A-5) vide their letter dated 08.02.2014 while enclosing a unregistered will of the deceased employee in favour of one Smt. Sita Devi, claimed family pension for the said Smt. Sita Devi. Accordingly, they sought for submission of succession certificate issued by a competent court from the applicant. Admittedly other than the letter written by the Uttariya Railway Mazdoor Union there is no rival claim made by any individual including the third respondent Smt. Sita Devi, for family pension.

5. On the other hand, the applicant submitted various documents clearly showing that the applicant is the wife of the deceased employee late Shri Babu Lal. The respondents, being the Authorities cannot act on the basis of the Union letter, unless there is a valid counter claim for family pension. On the other hand, the documents supplied by the applicant are issued by

various Governmental Authorities i.e Ration Card, Election ID, Aadhaar Card, order of the criminal court etc. clearly supporting the case of the applicant, who was a Senior Citizen. As per the order dated 02.03.2010, which was passed under Section 125 of Cr. P.C., the deceased employee has not denied the relationship of husband and wife between him and the applicant and he only denied the liability to pay maintenance on the ground that he is looking after the applicant and his daughters well. Therefore, there is no justification for the respondents, in the absence of valid claim, to ignore the documents submitted by the applicant and deny the family pension to her.

6. Hence, in the circumstances and for the aforesaid reasons, the OA is allowed, impugned order is quashed and the respondents are directed to consider the case of the applicant and, accordingly, release the family pension within 90 days from the date of receipt of a copy of this order. However, the applicant is entitled for arrears from the date of filing of the O.A., i.e., 16.10.2014, only. No costs.

(V. Ajay Kumar)
Member (J)

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