

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2305 of 2017

This the 7th day of December, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Smt. Phoolwati Devi,
W/o late Sh. Rajeshwar Paswar,
Aged 50 year,
R/o = D/309, Shiv Durga Vihar
Lakkarpur, Badarpur Boarder,
Near Faridabad (Haryana).

....Applicant

(By Advocate : Shri Manjeet Singh Reen)

VERSUS

Union of India & others : Through

1. The General Manager,
Northern Railway,
Headquarter's Office,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Sr. Section Engineer (Tele),
(PAE/G),
DRM Office, State Entry Road,
New Delhi.
4. Smt. Manorma Devi,
S/o Late Sh. Rajeswar
Panwan.

.....Respondents

(By Advocates : Shri Yogesh Sharma for R-4 and Shri Kripa
Shanker Prasad for R-1 to R-3)

ORDER (Oral)

Heard learned counsel for the parties.

2. By filing the present OA, the applicant is seeking the following reliefs:

“8.1 That this Hon’ble Tribunal may graciously be pleased to allow this Original application directing the respondents to release equal share of settlement dues and family pension of her late husband Rajeshwar Paswan in hier favour as per Rules with all consequential benefits without any delay.

8.2 That this Hon’ble Tribunal may graciously be pleased to directing the respondents forthwith releasing the family pension in her favour with all consequential benefits.

8.3 That this Hon’ble Tribunal may graciously be pleased to direct the respondents to produce all relevant records before this Hon’ble Tribunal in the interest of justice.

8.4 That any other or further relief which this Hon’ble Tribunal may be deem fit and proper under the circumstances of the case may also be granted in favour of the applicants.

8.5 That the cost of the proceedings may also be awarded in favour to the applicants.

3. Grievance of the applicant in this case is with regard to release of all settlement dues and family pension by the official respondents in favour of respondent no.4, allegedly second wife of late Shri Rajeshwar Paswan, despite the fact that she was not the legally wedded wife and the applicant is the first wife of late Shri Rajeshwar Paswan.

3.1 Aggrieved by the aforesaid action of the official respondents, the applicant has filed this OA seeking the reliefs as quoted above.

4. Pursuant to notices issued to all the respondents, both private respondent no.4 as well as official respondents have filed their counter replies. In the counter reply filed by respondent no.4, it is stated that this Tribunal has no jurisdiction to decide the factual aspect of the matter regarding who is the real wife of late

Sh. Rajeshwar Paswan and who is entitled for all the retirement benefits in respect of late Sh. Rajeshwar Paswan, as jurisdiction to decide this aspect comes within the ambit of Civil Court by issuing succession certificate and in the absence of succession certificate only on the basis of departmental records, the claim can be decided in which it is admitted fact that respondent no.4 is only the wife of late Sh. Rajeshwar Paswan and name of the applicant is not declared at all.

4.1 It is further stated by respondent no.4 that in all the documents respondent no.4 is only the wife of the deceased Railway employee, namely, Shri Rajeshwar Paswan and when during the life time of deceased employee, it was in the knowledge of the applicant regarding that respondent no.4 is a wife of deceased Shri Rajeshwar Paswan, she should have taken legal remedy as per law, but no such action was taken.

5. In the counter reply filed by official respondent nos.1 to 3, it is stated that Shri Rajeshwar Paswan S/o Shri Bhota Paswan was working as Wireless Khalansi under CTI/PAE/G DRM Office New Delhi and retired as a result of compulsory retirement from Railway Service on 15.8.2015. Accordingly, as per documents, i.e., pension papers submitted by him at the time of his retirement, all due settlement dues have been released in his favour and nothing is pending at present. The deceased Govt. employee has mentioned the details of the members of his family in Form No.6 (Annexure R-I) and accordingly the name of the eligible spouse has been mentioned in the Pension Payment authority, as the said Govt. employee had mentioned the name of Smt. Manorma Devi

(respondent no.4) as spouse and nominee in the nomination form during his life time (Annexure R-II)

5.1 It is further stated that at present no pensionary benefits are pending with department as the same were released during the lifetime of the ex-employee in his favour, as such the request for grant of family pension in her favour and other dues of pensionary benefits at this stage is not to be considered.

5.2 It is also stated that representation dated 28.2.2017 received from the applicant, which was replied by the official respondents vide letter dated 19.5.2017.

5.3 Lastly they stated that the instant OA deserves to be dismissed by this Tribunal.

6. Heard learned counsel for the parties and perused the material placed on record.

7. Counsel for the applicant vociferously argued that the applicant is first wife of the deceased Govt. employee and as such respondent no.4 cannot be given the family pension. On the other hand, counsel for the respondents submitted that all the retiral benefits were released to the deceased Govt. employee during his lifetime and the pension was also sanctioned to him and the name of respondent no.4 was mentioned in the PPO by virtue of nomination executed by the deceased Govt. employee and is as per submitted his family details in Form 6, which was submitted in way back in 1999.

8. Counsel for the respondents further submitted that the applicant has raised the issue of grant of family pension only after

the death of the said Govt. employee and the family pension was released to the nominee as mentioned in the PPO issued in favour of the deceased Govt. employee. If the applicant has any grievance, she should have taken legal recourse in the matter but as of now, there is no occasion for the official respondents to take cognizance of the grievance of the applicant.

9. After hearing and noting the submissions of the learned counsel for the parties, this Court finds that in the present facts and circumstances of the case, the applicant is not entitled for any relief as prayed for in this OA, as it is evidently proved that the family pension has been issued to the nominee as declared by the deceased Govt. employee and the said form was filled up by him in the year 1999 and the applicant has not produced any document to show that she is the only legally wedded wife of the deceased Govt. employee. As such the present OA is dismissed.

10. However, if the applicant produces any such document about the legal status from the competent Court, the respondents are directed to examine the same and take appropriate action in the matter in accordance with the rules and law on the subject. There shall be no order as to costs.

**(Nita Chowdhury)
Member (A)**

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