

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/01036/2016

Monday, this the 12th day of March, 2018

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member

Helan Savithry, W/o. P.A. Natarajan,
 Bindu Vihar, Mangakkunnu, Kurumandal,
 Paravoor Village, Kollam – 683 513.

..... **Applicant**

(By Advocate : Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. The Southern Railway, represented by General Manager,
 Southern Railway, Chennai – 600 003.
2. The Divisional Manager, Southern Railway,
 Thiruvananthapuram – 695 014.
3. The Senior Divisional Personnel Officer,
 Southern Railway, Thycaud, Thiruvananthapuram-695 014.
4. The Deputy Chief Personal Officer/Engineering,
 Southern Railway, Chennai – 600 003.

..... **Respondents**

(By Advocate : Mr. Millu Dandapani)

This application having been heard on 21.02.2018, the Tribunal on
 12.03.2018 delivered the following:

ORDER

Per Hon'ble Mr. U. Sarathchandran, Judicial Member -

The applicant has approached this Tribunal for the 4th time claiming family pension of Shri P.A. Natarajan who was working as Senior Gangman in Southern Railway, Ernakulam. He had retired from service on superannuation on 31.10.2000 and thereafter died on 28.6.2001. According

to the applicant when she applied for pensionary benefits it was not granted by the Railways. Respondent No. 2 demanded the applicant to produce succession certificate. Though she produced Annexure A4 succession certificate the respondents failed to consider her claim for family pension and therefore, she filed OA No. 531 of 2004. The said OA was disposed of on 14.7.2004 vide Annexure A6 order directing the respondents to consider her representation and if necessary after a personal hearing. Respondent No. 3 vide Annexure A7 order declined to grant the relief sought by the applicant in the representation in terms of Annexure A6 order of this Tribunal. Being aggrieved by Annexure A7 order he filed OA No. 774 of 2005. The said OA was heard by this Tribunal along with OA No. 441 of 2005 filed by one Gomathy claiming to be the wife of the late Shri Natarajan and praying for family pension. Annexure A9 common order was passed by this Tribunal in the aforesaid two OAs. In Annexure A9 order the respondents were directed to undertake a full fledged enquiry to find out the person really entitled to grant of family pension. Though the applicant produced the relevant documents before respondent No. 3 as called for in Annexure A11 letter, there was no communication subsequently. Hence she caused to issue Annexure A12 legal notice on 29.6.2012. Aggrieved by the inaction on the part of the respondents the applicant again filed OA No. 929 of 2012 but the same was dismissed for non-prosecution on account of the non-appearance of the counsel for the applicant. The applicant now states that her trivial claimant Shri Gomathy who had filed OA No. 441 of 2005 is no more and therefore the applicant is the only claimant for family pension. She therefore prays for relief as under:

- “1. Declare that the applicant is entitled to the family pension and other service benefits due to her deceased husband Natarajan the retired employee of the 1st respondent.
2. Direct the respondents to disburse the family pension and pension dues of the deceased employee Natarajan to the applicant herein forthwith.
3. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
4. Award the cost of these proceedings to the applicant.”

2. Respondents filed a reply resisting the claim of the applicant stating that in terms of Annexure A9 judgment of this Tribunal they had conducted a detailed enquiry, a copy of the report has been produced as Annexure R2. According to the respondents there is nothing in the service records of the late Shri Natarajan that he has a family. According to the respondents in the absence of anybody mentioned as member of the family in the service records entitled to claim family pension, the case of the applicant cannot be allowed. It is also contended by the respondents that the succession certificate and other documents produced by the applicant are not sufficient to treat her as the lawfully wedded wife of the deceased pensioner. It is also stated by the respondents that the applicant herself is a retiree from the Kerala State Government and is receiving pension but the late Natarajan is not shown as her husband in the PPO. Respondents pray for rejecting the OA.

3. Heard Shri Vishnu S. Chempazhanthiyil, learned counsel appearing for the applicant and Mr. Millu Dandapani, learned Standing Counsel appearing for the respondents. Perused the record. Perused the hearing notes submitted by Shri Vishnu S. Chempazhanthiyil also.

4. Applicant has produced Annexure A1 certificate dated 13.8.1975 issued by the then President of the Paravur Panchayat, Kollam District as the proof her marriage with the deceased pensioner. Annexure A1 certificate- a document typed in the letter head of the person who had issued it states that Shri Natarajan has married the applicant on 2.1.1959 and that the couple are known to him. Annexure A1 does not carry any official emblem or official seal. She had produced Annexure A1 before the respondents for considering her claim as legally wedded wife of the deceased employee but the respondents rejected the same stating that Annexure A1 is not a legally sustainable proof of a valid marriage. Similarly the applicant had produced Annexure A4 copy of the succession certificate issued by the Munsiff Magistrate, Paravoor which also was not accepted by the respondents as proof that she is the wife of Shri Natarajan. This Tribunal had carefully perused Annexures A1 and A4. This tribunal prima facie is of the view that they are not legally acceptable documents for proving that the applicant is the legally wedded wife of Shri Natarajan. Nevertheless when this question came up before this Tribunal in OAs Nos. 441 of 2005 and 774 of 2005 filed by Smt. Gomathy claiming to be the wife of Shri Natarajan and the applicant herein respectively, this Tribunal relying on the apex court decision in *Rameshwari Devi v. State of Bihar* - (2000) 2 SCC 431 directed the respondents to conduct a detailed enquiry. In that decision the apex court held :

“In the present case we are concerned only with the question as to who is entitled to the family pension and death-cum-retirement gratuity on the death of Narain Lal. When there are two claimants to the pensionary benefits of a deceased employee and there is no nomination wherever required the State Government has to hold an inquiry as to the rightful claimant. Disbursement of pension cannot wait till a civil court pronounces upon the respective rights of the parties. That

would certainly be a long drawn affair. The doors of civil courts are always open to any party after and even before a decision is reached by the State Government as to who is entitled to pensionary benefits. Of course, inquiry conducted by the State Government cannot be a sham affair and it could also not be arbitrary. The decision has to be taken in a bona fide, reasonable and rational manner.”

(underlining supplied)

5. In the present case it was in tune with the above decision of the apex court this Tribunal in Annexure A9 order directed the respondents to conduct a detailed enquiry. Annexure R2 is the detailed report submitted by the Railway official who conducted the enquiry. By way of conclusion Annexure R2 report reads:

“Conclusion

The analysis of various documents advanced by the rival claimants as also the verifications caused for finalizing this inquiry report amply prove that there was no relation between the deceased employee Shri P.A. Nadarajan and the applicants in both the Original Applications of a legal marriage to entitle them the family pension after his death. The documents give some indication that at some point of time both the applicants had some relation with Shri Nadarajan, which can no way be compared to the sanctified wife – husband relation to entitle the retirement benefit of a husband to a wife. It is quite possible that Shri Nadarajan and Smt. Gomathy being in the same department might have been acquainted with each other as also Smt. Helen Savithry being in the Kerala Government Medical Services in a same place of working of Shri Nadarajan might have been friendly with each other being an Open Line employee of the Railways. Accordingly it is submitted that both the applicants are not eligible for Family Pension due to Shri Nadarajan.”

6. No attempt was made by the applicant to get a declaration from a Family court about her status as the wife of the deceased. She now claims that since her competitor Smt. Gomathy is no more she remains as the sole person entitled to claim family pension. However as there is no valid proof to show that the applicant is the legally wedded wife of the deceased Shri Natarajan, this Tribunal is of the view that Annexure R2 report of the Railway has to be accepted. The Tribunal does so.

7. In the result the OA is dismissed. No order as to costs.

(U. SARATHCHANDRAN)
JUDICIAL MEMBER

“SA”

Original Application No. 180/01036/2016**APPLICANT'S ANNEXURES**

- Annexure A1** – True copy of the marriage certificate of the applicant with the said Natarajan.
- Annexure A2** – True copy of the death certificate issued by the Secretary and Registrar of Birth and Death.
- Annexure A3** – True copy of representation dated 29.8.2001 to the 2nd respondent.
- Annexure A4** – True copy of the succession certificate dated 12.8.2003.
- Annexure A5** – True copy of representation dated 14.10.2003 submitted by the applicant.
- Annexure A6** – True copy of the order dated 14.7.2004 in OA No. 531/2004 of this Hon'ble Tribunal.
- Annexure A7** – True copy of the order No. V/P 626/I/158/2000 dated 19.11.2004 issued by the 3rd respondent.
- Annexure A8** – True copy of the relevant portion of the Passport of the applicant.
- Annexure A9** – True copy of the common order dated 30.3.2007 in OA 774/05 and OA 441/05 of this Hon'ble Tribunal.
- Annexure A10**– True copy of the covering letter dt. 16.05.2007 to the respondents.
- Annexure A11**– True copy of the letter dated 3.7.2007 issued by the 3rd respondent.
- Annexure A12**– True copy of the notice dated 29.6.2012 to the respondents.
- Annexure A13**– True copy of the acknowledgment card issued to the 1st respondent.
- Annexure A14**– True copy of the acknowledgment card issued to the 2nd respondent.
- Annexure A15**– True copy of the acknowledgment card issued to the 3rd respondent.

Annexure A16– True copy of the acknowledgment card issued to the 4th respondent.

Annexure A17– True copy of the order dated 1.8.2013 in OA No. 929/2012 of this Hon'ble Tribunal.

Annexure A18– True copy of the representation dated 20.4.2014 submitted by the applicant to the respondents.

Annexure A18(a)– True copy of the representation dated 4.11.2016 submitted by the applicant to the respondents.

RESPONDENTS' ANNEXURES

Annexure R1– True copy of the letter No. V/P.626/I/158/2000 dated 19/11/2004.

Annexure R2– True copy of the Enquiry Report.

Annexure R3– True copy of the Order dated 1st August 2013 in OA No. 929/12.

-X-X-X-X-X-X-X-X-X-