

**Central Administrative Tribunal
Principal Bench**

OA No.2037/2017

Order Reserved on 07.03.2018

Pronounced on 04.05.2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

Veena Rani, aged about 60 years,
W/o lae Sh. Devender Kumar (Driver Group 'C')
352, Double Story, Bharat Nagar,
Delhi-110052.

.... Applicant

(By Advocate: Mr. S.R. Mehta)

Versus

1. The Chairman-cum-Managing Director,
Delhi Transport Corporation,
DTC Head Qtrs., I.P. Estate,
New Delhi-2.
2. Manager (Pension),
Delhi Transport Corporation,
DTC Head Qtrs., I.P. Estate,
New Delhi-2.
3. Deputy Manager (Pension),
Delhi Transport Corporation,
DTC Head Qtrs., I.P. Estate,
New Delhi-2.
4. Madhu (Nominee),
R/o K-40B, Chanakya Place, Part-II,
Uttam Nagar, Delhi-110059.

....Respondents

(By Advocate: Mr. Anurag Sharma for Ms. Ruchira Gupta, for respondent Ns.1 to 3 and Mr. Amarjeet Kumar for Mr. D.K. Sharma, for respondent No.4.)

ORDER

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

“b) Quash the order passed by Dy. Manager (Pension) vide letter no.PC/164 dated 06.07.2015.

c) Direct the respondents to disburse the family pension & other incidental pensionary benefits, including arrears w.e.f. 22.08.2014 to the applicant.”

2. The factual matrix of the case, as noticed from the facts, is as under:

2.1 The applicant is the legally wedded wife of late Shri Devender Kumar, who was working as a Driver in Delhi Transport Corporation (DTC)-respondent organization. He retired from the service on 30.10.2011. He was an optee of DTC Pension Scheme, in terms of which he was getting pension after his retirement. He died on 21.08.2014. The respondent No.4 (R-4) claims that she got married to late Shri Devender Kumar on 16.07.1979 and that Shri Devender Kumar (her husband) had declared her to be his nominee in his pension papers. Thus, she is legitimate claimant of the family pension.

3. The DTC-respondents No.1-3 in their reply have stated that after the death of Shri Devender Kumar on 21.08.2014, they received application dated 23.09.2014 from R-4, enclosing

therewith death certificate and requesting that she should be sanctioned family pension as she is the nominee as per the records. It is also stated that late Shri Devender Kumar had declared R-4 as his nominee in the prescribed proforma for receiving his pensionary benefits, viz. Provident Fund, Gratuity etc. The DTC have further stated that after receiving all the requisite documents from R-4 (Annexures A-1 to R-8), her claim for family pension was processed and the same was sanctioned to her.

3.1 The DTC have further stated that they had received an application dated 08.10.2015 from the applicant for grant of family pension. She, however, vide DTC letter dated 20.08.2015 was informed that late Shri Devender Kumar had declared Smt. Madhu (R-4) as his nominee and in terms of the said declaration, family pension is being disbursed to her.

4. The contention of the applicant is that her marriage with Shri Devender Kumar had subsisted all through and they never got divorced from each other albeit Shri Devender Kumar had filed a Divorce Petition dated 10.08.1984 in the Court of District Judge, Delhi (Annexure A-1). It is further stated that the Additional Principal Judge, Family Court, Rohini, Delhi had recorded statements of Shri Devender Kumar Sudan and the applicant (p.62), according to which Shri Devender Kumar had agreed to pay a sum of Rs.3300/- per month towards maintenance.

5. Arguments of the learned counsel for the parties were heard on 07.03.2018.

6. I have considered the arguments of the learned counsel for the parties and have also perused the pleadings. The limited issue involved is as to who is entitled for getting the family pension; applicant or R-4?

7. The crucial factor for determining the eligibility is the nomination done in Form-A under Rule 53 (1)(i) of the CCS (Pension) Rules, 1972, which is extracted below:

“53. Nominations

(1) A Government servant shall, on his initial confirmation in a service or post, make a nomination in Form 1 or 2, as may be, as appropriate in the circumstances of the case, conferring on one or more persons the right to receive the ³[retirement gratuity/death gratuity] payable under Rule 50 :

Provided that if at the time of making the nomination -

<i>(i)</i>	<i>the Government servant has a family, the nomination shall not be in favour of any person or persons other than the members of his family ; or”</i>
<i>(ii)</i>	<i>xxx xxx xxx</i>

8. The documents of the DTC would reveal that Shri Devender Kumar had nominated R-4 under Rule 53 (1) indicating therein that R-4 is his wife. Under these circumstances, the DTC-authorities had no option except to act as per the Rule. Accordingly, after the receipt of the requisite documents, they have sanctioned the family pension to R-4.

9. It is prudent to observe that late Shri Devender Kumar had filed a Divorce Petition dated 10.08.1994 (Annexure A-1) in the Court of District Judge, Delhi, seeking divorce from the applicant, which had remained pending for long. I find from the records, an order of Additional Principal Judge, Family Court, Rohini, Delhi dated 20.05.2010 (p.61), which reads as under:

“20.05.2010

Present: Petitioner with counsel

Respondent with counsel.

Efforts for conciliation made. As a result of the efforts, both the parties have arrived at an amicable settlement. The respondent has offered to pay a sum of Rs.3300/- per month from the date of application towards maintenance and the petitioner has accepted the offer. The respondent has agreed to clear the arrears of maintenance within a period of three months and to pay the enhanced maintenance amount by 10th of each month. The statement of the parties have been recorded separately.

Parties shall be bound by the statement made in the court today. The petition is disposed of in terms of compromise and statement recorded in the court today.

File be consigned to record room.”

10. From the *ibid* order of the Family Court, it is quite evident that the applicant had been living separately from late Shri Devender Kumar.

11. Considering the totality of the situation I do not consider it appropriate to interfere with the decision of the DTC-authorities to sanction the family pension to R-4, which is based on the nomination of late Shri Devender Kumar declaring R-4 as his nominee. Until and unless the applicant gets a declaration from a

competent civil court, declaring the marriage of R-4 with late Shri Devender Kumar *null* and *void*, I am of the view that the claim of the applicant for family pension cannot be considered.

12. In the conspectus of the discussions in the foregoing paras, the OA is dismissed being found devoid of merit.

13. There shall be no order as to costs.

(K.N. Shrivastava)
Member (A)

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