

**Central Administrative Tribunal
Madras Bench**

OA/310/01765/2016

Dated Friday the 13th day of April Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

D.Kumari
W/o late L.Devaraj,
No.1, Jangamma Chetty Street,
Walajapet, Vellore,
Pin 632513. .. Applicant

By Advocate **M/s.N.Saravanan**

Vs.

1. Union of India, rep by its
General Manager,
Postal Accounts & Finance,
Tamil Nadu Postal Circle,
Egmore, Chennai-8.
2. Superintendent of Posts,
Arakkonam Division,
Arakkonam,
Vellore District,
Pin 631001. .. Respondents

By Advocte **Mr.K.Ramasamy**

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. The applicant has filed this OA seeking the following relief:-

“To set aside the impugned order passed by the 2nd respondent vide his Proceedings in No.C3/Pension/dlgs dated at Arakkonam 631001 the 24.08.2016 and consequently direct the respondents to grant family pension to the applicant, wife of (PPO No.32032/LPS) of (late) L.Devaraj at the earliest.”

2. It is submitted that the applicant is a legally wedded wife of late Shri L.Devaraj who worked in the department of Posts and superannuated therefrom on 31.1.2011. Subsequently he died on 05.12.2015. As the respondents failed to sanction family pension due to her following the death of her husband, she made a representation on 17.12.2016 followed by another one dated 20.6.2016. However, after the initial round of litigation wherein the respondents were directed to pass a speaking order on the claim of the applicant, Annexure A14 order dated 24.8.2016 came to be passed rejecting her claim for family pension. Aggrieved by the said order, the applicant has filed this OA.

3. Learned counsel for the applicant would submit that the applicant married the deceased employee on 15.5.1981 and lived with him throughout till his death. The respondents rejected her claim alleging that the deceased employee was married to one Bangaramma in the year 1968 and, therefore, the applicant's marriage with the deceased employee was not valid in the absence of a proper

divorce. As the applicant could not produce any evidence of such divorce, the legal heir certificate produced by the applicant could not be relied upon. It is submitted that the applicant had only married the deceased employee after ascertaining that he did not have a living spouse and after more than 36 years thereafter she could not be penalised for any inaction on the part of her husband to get the previous marriage, if any, nullified under law. He would also submit that the first wife had been untraceable ever since the alleged marriage took place in 1968 and the respondents could not deny family pension to the applicant in the absence of any rival claim from any such person.

4. Learned counsel for the respondents would, however, submit that the fact that the applicant's husband was married in 1968 to one Bangaramma was disclosed by the deceased employee himself in Annexure A7 letter dated 01.8.2011. The applicant's husband ought to have known that he could not marry for a second time when his wife was still alive without a Civil Court decree to the effect that she was missing and untraceable for over 12 years. There is no provision in the rules for sanctioning family pension to a second wife when the marriage itself was not valid.

5. I have considered the matter. In Annexure A14 impugned order dated 24.8.2016, it has been stated that the applicant ought to have taken action to obtain divorce from the said Bangaramma before entering into a second marriage with

the applicant on 15.5.1981 or atleast got a police report stating that the whereabouts of the first wife Bangaramma were not known. However, he failed to do so and, therefore, the respondents could not recognise the alleged second marriage on 15.5.1981 as valid. It is clear that the applicant's husband took no action during his life time to include the applicant's name in the relevant records as a legally wedded wife by production of the requisite certificates.

6. Although it may not be fair to hold the inaction of the applicant's husband against her for no fault of hers, the correct legal remedy for the applicant appears to be to now move the competent Civil court with all the relevant facts for a decree to the effect that her late husband's first wife had remained untraceable for over 12 years even at the time of the applicant's marriage and is still untraceable and, therefore, her marriage with the late Devaraj was very much valid under the Hindu Marriage Act, 1955. If and when such a decree is produced, the respondents should be able to proceed accordingly and consider to sanction family pension to her.

7. OA is disposed of with the above observations. No costs.

(R.Ramanujam)
Member(A)
13.04.2018

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