

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

MA No.1059 of 2016 in OA No.445 of 2016
AND
Original Application No. 445 of 2016
Date of order : 23-02-2018

Between :

K.Sravani D/o late Smt.K.V.Subbamma,
Aged about 22 years, Occ: Unemployee,
R/o H.No.40-6-5-23/9, Kammapalem,
3rd Line, Ongole, Prakasam District, A.P.Applicant

AND

1. Union of India, Rept. by its Secretary,
Ministry of Railways, Rail Bhawan,
North Block, New Delhi.
2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager,
South Central Railway,
Vijayawada Division, Vijayawada.
4. The Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada Division, Vijayawada.Respondents

Counsel for the Applicant : Mr.G.Jayaprakash Babu
Counsel for the Respondents : Mrs.Vijaya Sagi, SC for Rlys

CORAM :

THE HON'BLE MRS. MINNIE MATHEW,ADMINISTRATIVE MEMBER

(Oral order per Hon'ble Mrs.Minnie Mathew, Administrative Member)

Heard Mr. Ratna Sudhakar, learned counsel for the applicant and Mrs. Vijaya Sagi, learned Standing Counsel for the Respondents.

2. The applicant is aggrieved by the inaction of the Respondents in not releasing the death / retirement benefits and family pension of her late mother Mrs.K.V.Subbamma who died in harness while working as Retiring Room Attendant under the control of Respondent No.4. The applicant's case is that at the time of her mother's death she was a minor and was living with her mother separately whereas her elder brother and sisters were living with their families. On attaining the age of majority, she came to know that she is entitled to receive the family pension and death / retirement benefits of her deceased mother. She therefore requested the Respondents vide her representations dated 23.12.2015 and 21.03.2016 for release of family pension and retirement / death benefits of her late mother. It is also her case that she was the nominee as per the Annexure A-3 Service Certificate dated 23.06.2009 and under Rules 50(6)(iv) and 54(6)(iii) of CCS (Pension) Rules, 1972. However, the Respondents, inspite of receiving the representations, have failed to consider the same and have not paid her the family pension and the retirement benefits till date.

3. The Respondents have filed the reply statement resisting the pleas in the OA. They submitted that Smt. K. V. Subbamma was appointed on compassionate grounds on 19.04.1986 after the demise of her husband K. Tirupati, Mazdoorman on 28.01.1980. After the death of K.V.Subbamma, Sri K.Venkata Rao, K. Lakshmi, K. Jyothi and the applicant herein claimed the death benefits as the children of the deceased.

4. Thereupon, the Railway administration have paid half of the share of

the death benefits to Sri K. Venkata Rao who was the son of the deceased Railway employee and kept the remaining half share for the applicant who was a minor. They have denied the contention of the applicant that she approached them for release of the remaining share of the death benefits.

5. The Respondents further submit that on examination of papers filed in the OA, it is clear that the applicant is not the daughter of the deceased Smt. K. V. Subbamma as she was born after the death of late K. Tirupati on 28.01.1980 and very much after Smt. Subbamma's appointment in the Railways on 19.04.1986. Therefore, unless the applicant proves that she is the daughter of the late K. V. Subbamma, she is not entitled for the remaining death benefits.

6. The Respondents have also pointed out that in the Educational Certificates annexed to the OA, the name of the father of the applicant is shown as K. Venkata Rao and not as K. Tirupati and therefore the claim of the applicant is concocted and not tenable. It is also submitted by the Respondents that the details of nomination in the service certificate have been recorded by them in good faith based on the information submitted in the Pension Papers by the claimants. However, in view of the fact that the father's name is recorded differently in the educational certificates, the applicant has to prove herself as the daughter of Smt. K. V. Subbamma to receive the death benefits. They also submitted that the family members names have been recorded as per the information submitted by the claimants at the time of claiming the death benefits of the deceased.

Further, as per the GL-14, leave availed particulars of the deceased employee, she did not avail any type of leave during the August, 1994, ie the period of the birth of the applicant, which clearly establishes that the applicant is not the daughter of the deceased employee. It is also submitted that the deceased employee availed privilege passes in favour of her son and never mentioned anything about the applicant.

7. The applicant has filed a rejoinder stating that her brother Mr.K. Venkata Rao has not disputed her relationship and as such has withdrawn only half of the retiral benefits of her late mother. He had also not disputed her share which was kept in fixed deposit. She submits that she was born out of a live-in relationship of her mother with one Gundappa Reddy Sridhar Reddy after the demise of Shri K. Tirupathi and in the absence of her father who left the village in search of employment, her brother Mr. K. Venkata Rao entered his name as father instead of guardian inadvertently in her educational records. It is contended that a mere wrong entry in the educational certificates cannot deprive her of her rights. It is also submitted that even the children born out of live-in relationships have to be considered and treated on par with the legitimate children. She also contends that her mother was on leave for only a short period during her pregnancy and that non mentioning of leave cannot be a ground to hold that she is not the daughter of the late Smt. K. V. Subbamma.

8. I have considered the arguments and submissions made by both sides and have perused the material on record.

9. The short point for consideration is whether the applicant has been able to establish her relationship as the daughter of the late Smt. K. V. Subbamma for claiming the death / retirement benefits of the deceased Railway employee.

10. The Respondents have raised an objection that the applicant never approached the authorities for claiming the death benefits and that she directly filed the OA. However, from the material on record it is seen that applicant had submitted representations on 05.09.2015, 23.12.2015, 21.03.2016 and also produced copies of the acknowledgements with stamp and seal of the DRM on 28.12.2015 and the Sr.DPO on 28.12.2015. Hence this objection is untenable and accordingly rejected.

11. However coming to the other objections raised by the Respondents, it is clear that the applicant's identity has not been properly established and that several glaring discrepancies appear on the face of the record. As pointed out by the Respondents, the applicant has been shown as the daughter of Mr. Koti Venkata Rao consistently in all her educational certificates, whereas the Respondents state that the husband of Smt. K.V. Subbamma was one Shri K. Tirupathi and that he expired on 28.01.1980 whereas the applicant's date of birth is 04.08.1994. It is only after the filing of the Reply statement pointing out the discrepancies that the applicant has, in a rejoinder stated that she was born out of a live-in relationship between her mother and one Shri Gundappa Reddy Shridar Reddy and that Mr. Koti Venkata Rao is her elder brother and guardian and he had

inadvertently entered his name as father instead of guardian as her father had left the village. These averments which were never made in the OA and have been made only in response to the discrepancies pointed out by the Respondents are not acceptable.

12. The applicant would contend that the wrong entry in the educational certificate cannot be held against her. If there is any erroneous entry, such entry should have been corrected taking recourse to the remedies available to her for correction. However as long as Shri K.Venkata Rao's name figures as the father of the applicant, the Respondents cannot be faulted for the objections that they have raised. The applicant has also not produced any nominations made by her late mother in her favour during her life time. On the other hand, the Respondents have categorically stated that the deceased Railway employee never availed of any privilege passes in favour of the applicant and that the late Smt. K. V. Subbamma did not avail of any kind of leave in August, 1994 which is shown as the date of birth of the applicant. Further, the service certificate issued by Sr.DPO, dated 23.06.2009, showing the applicant as minor daughter and relied upon by the applicant was based on the submissions made by the claimants themselves immediately after the death of the Railway employee.

13. In view of the discrepancies which are writ large in the case, I hold that this is not a case warranting interference by this Tribunal.

14. However, since the Respondents have admittedly retained half of the share of the death benefits of the late Smt. K. V. Subbamma, it is open to

the Respondents to consider any representation made by the applicant with satisfactory documentary evidence about her relationship as daughter of the deceased Railway employee and take an appropriate decision in accordance with the law.

15. The OA is dismissed with the aforesaid observation. In view of the above order in the OA, MA No. 1059 of 2016 filed for deletion of Respondent No.1 has become infructuous.

16. No order as to costs.

(MINNIE MATHEW)
ADMINISTRATIVE MEMBER

Dated : 23rd February, 2018.
Dictated in Open Court.

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