

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD**

**Original Application No.693/2017**

**Date of C.A.V. : 13.07.2018**

**Date of Order : 03.09.2018**

**Between :**

A.Bhanumathi, W/o Late A.Parishuddam,  
Aged 49 years, House Wife, R/o Dr.No.6-9-4,  
Tailorpet, RCM School Street, Gollapalem Gattu,  
Vijayawada, Krishna District. ... Applicant

**And**

1. Union of India,  
South Central Railway,  
Rep. by its General Manager,  
Secunderabad.

2. The Divisional Manager,  
South Central Railway,  
Vijayawada, Krishna District. ... Respondents

Counsel for the Applicant ... Mr. G.Narasimha Rao, Advocate  
Counsel for the Respondents ... Mr. S.M.Patnaik, S.C.for Rlys.

**CORAM:**

***Hon'ble Mr.Justice R.Kantha Rao ... Member (Judl.)***

***ORDER***

**{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judi.) }**

The OA is filed by the applicant to declare the action of the respondents in rejecting family pension and other related benefits to the applicant vide order dated 06.05.2017 as contrary to law and the rules and consequently direct the respondents to settle the family pension and other terminal benefits of the applicant with arrears and interest.

2. The case of the applicant which is set out in the Original Application filed by her is briefly as follows :

One A.Parishuddam worked as Commercial TCG/II in Railways, Vijayawada, retired from service on 31.10.2001 and subsequently died on 30.06.2016. After retirement he was granted terminal benefits and till his death he was drawing monthly pension. According to the applicant one A.Anthonamma was the first wife of A.Parishuddam. She had no children through him. Anthonamma died on 10.01.2010. A.Bhanumathi – the applicant herein claims that after the death of Anthonamma, A.Parishuddam married her on 05.08.2011 at St.Peter's Cathedral Church, Tailorpet, Vijayawada.

3. However, the applicant made a contradictory statement in the OA to the effect that the first wife A.Anthonamma was not blessed with any children, she permitted her husband A.Parishuddam to contract second marriage and accordingly he married the applicant on 20.04.1979 at Venugopalaswamy Temple, Kakinada. Thereafter she had blessed with female and male child Mary Jeevan Sudha and A.Yesu Raju who were now aged about 30 and 24 years respectively.

Her case is that A.Parishuddam died leaving behind her and the aforementioned children born through him as his legal heirs claiming to be the wife of A.Parishuddam, she made representations to the Railway Authorities to grant her family pension and other benefits, for which she is entitled according to rules. The same was ultimately rejected by the authorities vide order dated 26.05.2017 which is impugned in the present OA.

4. The respondents filed reply statement contending interalia as follows :

Late A.Parishuddam declared Anthonamma as his wife and nominated her for the purpose of family pension, for gratuity and other benefits and submitted the required forms to the department. The deceased employee at no point of time declared the applicant as his wife and get her name or the names of her children recorded in any railway records. The applicant failed to establish herself by an order issued by the competent court of law that she is the legally wedded wife of the deceased. As the relationship is not established, the applicant is not entitled for any relief. The marriage of the applicant with the deceased employee on 05.08.2011 is not established. Further the applicant mentioned in the OA that her marriage took place way back on 20.04.1979 during which the deceased employee's marriage with Anthonamma was subsisting. Really if the deceased employee married the applicant, he had ample opportunity to include her name as his wife in the service records, but he did not do so. As the relationship of the deceased employee with the applicant is in dispute, the question of granting any family pension to her would not arise. Contending as above the respondents

sought to dismiss the OA.

5. I have heard Mr.G.Narasimha Rao, learned counsel for the applicant and Mr.S.M.Patnaik, learned standing counsel for the respondents.

6. The first question requires determination in the present OA is whether the applicant is entitled for family pension.

7. The learned counsel for the applicant submits that the applicant married the deceased employee after the death of his first wife and therefore the applicant is entitled for family pension though the deceased employee failed to inform the same to the department. On the other hand it is contended by the respondents that as the applicant herself specifically mentioned in the OA that she married the deceased employee on 20.04.1979 in a temple with the consent of the first wife, the said marriage which took place during the subsistence of the marriage of the deceased employee with Anthonamma is void and according to the provisions of the Hindu Marriage Act, the applicant is not the legally wedded wife of the deceased employee and therefore, she is not entitled to claim for any pension.

8. If really the applicant married A.Parishuddam- the deceased employee on 05.08.2011 at St.Peter's Cathedral Church, Vijayawada, she would have been entitled for family pension even though she did not obtain any declaratory decree from a competent civil court. The reason being, the said marriage took place subsequent to the death of Anthonamma. But for the reasons best known to her she took a contradictory plea in the OA to the effect that with the consent of Anthonamma she married the deceased employee at

Venugopala Swamy Temple, Kakinada on 20.04.1979. The said marriage is undoubtedly void as per the provisions of Hindu Marriage Act, since the marriage of the applicant with the deceased employee on 20.04.1979 which is prior to the marriage in christian form subsequently undergone. If the earlier marriage is taken into consideration as the marriage between the applicant and the deceased employee, the subsequent marriage though was allegedly performed after the death of Anthonamma cannot validate the earlier marriage which took place on 20.04.1979. She filed family member certificate dated 09.08.2016 issued by the Tahsildar. In the said certificate the applicant and her children are mentioned as wife and children of late A.Parishuddam – the deceased employee. She also filed certain photographs showing that she married the deceased employee. She also filed copy of the marriage certificate which indicates that she married the deceased employee on 05.08.2011 in St.Peter's Cathedral Church, Tailorpet, Vijayawada. Though all these documents and some other material available on record would go to show that the applicant married the deceased employee and both of them had lived together as wife and husband, in view of her assertion that she with the consent of Anthonamma married the deceased employee on 20.04.1979, the subsequent marriage even though was performed after the death of Anthonamma cannot confer valid marital relationship between the applicant and the deceased employee. On account of the specific assertion made by the applicant that she married the deceased employee with the consent of Anthonamma on 20.04.1979, the subsequent marriage has no significance in the eye of law. Therefore, I have no hesitation to hold that the applicant is not the

legally wedded wife of late A.Parishuddam.

9. The next question would be, in view of the fact that on the date of claiming family pension by the applicant the first wife was not alive, whether the applicant is entitled to claim the same.

10. As per the assertion made by the applicant in her OA with the consent of the first wife of the deceased employee, she married him in a temple on 20.04.1979. As per the provisions of Hindu Marriage Act, the said marriage is void. A.Parishuddam – the deceased employee died on 30.06.2016. Even though the applicant stated in her OA that even by the date of her marriage, the first wife Anthonamma died, the said statement goes contra to the assertion made by the applicant in the later paragraph that with the consent of Anthonamma she married A.Parishuddam on 20.04.1979. Therefore, when Anthonamma was alive, the applicant married A.Parishuddam and continued to live with him. Obviously therefore the marriage of the applicant with A.Parishuddam took place while his marriage with first wife Anthonamma was subsisting. The applicant who became the second wife in the aforementioned circumstances, had no status of widow of A.Parishuddam who was a Government servant. The marriage is void under the provisions of Hindu Marriage Act. Further it is also against the conduct rules governing late Parishuddam, a Government servant.

11. Though under Rule 54 of Revised Pension Rules, the family pension is admissible to children borne from the void or voidable marriage, only legally wedded wife is entitled to receive the family pension. The applicant whose marriage is void and has no status of a widow of the deceased employee is not

entitled to receive family pension, notwithstanding the fact that on the date of claiming family pension or on the date of death of the deceased employee, the first wife was no more.

12. In view of the above, the OA fails and the same is dismissed. There shall be no order as to costs.

***(JUSTICE R.KANTHA RAO)***  
***MEMBER (JUDL.)***

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