

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Application No.290/00237/2017

Reserved on : 26.11.2018

Pronounced on : 30.11.2018

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

Smt. Pabu Devi alias Babudi alias Naini W/o Late Shri Babu Lal aged 58 years, be caste Harijan R/o Himmat Bhawan, Ward No.22, Bhaktawar Mal Ji Bagh/Madho Bagh, Chopasani Road, Jodhpur (Raj.)

...Applicant

(By Advocate: Shri. Dilip Vyas)

Versus

1. Union of India through General Manager, N.W. Railway Jawahar Circle, Jaipur
2. The Divisional Railway Manager, North West Railway, Jodhpur (Raj.)
3. The Senior Divisional Personnel Officer, North West Railway, Jodhpur (Raj.)
4. The Senior Divisional Accounts Officer, North West Railway, Jodhpur (Raj.)
5. State Bank of India, Branch Jalori Gate, Jodhpur through its Branch Head.

...Respondents

(By Advocate: Shri Vinay Chhippa for resp. Nos.1 to 4 and Shri J.K.Chanda for resp. No.5)

ORDER

The applicant has filed the present OA u/s 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

- (i) That the Hon'ble Tribunal may graciously be kind to allow the original application and the letter dated 17-03-2017 and 18-05-2017 may kindly be quashed and set aside as being illegal and unjustified, and
- (ii) That the respondents may kindly be directed to sanction and pay all the arrears of such pension with the 18% interest from the date of her husband's death on 04-05-2014 without further delay, and
- (iii) Any other order or direction, which this Hon'ble Tribunal deems fit in the facts and circumstances may also be passed in favour of the applicant.

2. Brief facts of the case, as stated by the applicant, are that husband of the applicant Shri Babu Lal was working on the post of Points Man and he retired on superannuation on 31.07.1992. Name of the applicant as well as joint photograph of the applicant with her husband shows name of the applicant in the family details given by husband of the applicant to the railways as 'Pabu Devi'. In the family pension form filled by the husband of the applicant, her name has been mentioned as 'Pabu Devi' (Ann.A/4). The Pension Payment Authority has sanctioned family pension in the name of the present applicant, which is addressed to respondent No.5 i.e. the Bank bearing PPO No. 096922077 which also reveals name of the applicant as 'Pabu Devi'. The applicant submitted an affidavit to the railway authorities showing that her name is spelt as Pabu Devi, Naini Devi, Naini and Babudi in different documents such as Aadhar Card, Voter ID Card, Ration Card, Bhamashah Card etc. and further stated that all these names are the names

of one and the same person i.e. the applicant 'Pabu Devi' herself. The name of the applicant in her voter ID card is 'Naini' whereas in the Domicile Certificate it is 'Pabu Devi'. Again in the Aadhar Card it has been mentioned as 'Naini', but in the Aadhar Card, after coming to know her genuine mistake, she has got her name rectified and corrected as 'Pabu Devi' with the same number in the Aadhar Card. The photographs of the applicant on Aadhar Card, Ration Card, Election ID Card as well as joint photograph of the applicant with her husband are of same person i.e. the applicant only. Due to illiteracy and the prevailing social pattern of calling the family members with several nick names, the mistake has occurred about her different names in several documents. The applicant averred that she belongs to down trodden Scheduled Caste community of Harijan and due to lack of education and as per social practice, the name of the applicant has been spelt by different persons as Pabu Devi, Pabudi, Babudi. The applicant is not aware as to what name has been written by the authorities in her documents as she is illiterate and cannot read. It is the claim of the applicant that whoever has filled the form has mentioned her name as Babudi Devi in place of Pabudi alias Pabu Devi. Different pronunciations of her name by several persons has led to

the prevailing confusion created with the respondents and due to this confusion, the applicant has been denied the family pension and due to which she is in serious financial losses. The applicant has further stated that the respondents have denied her family pension vide order dated 17.03.2017 (Ann.A/1) and 18.05.2017 (Ann.A/2) which are illegal, unjustified and in violation of the principles of natural justice and the same are required to be quashed and set-aside and that she may be paid her family pension at the earliest along with arrears and interest without any further delay.

3. The respondent Nos. 1 to 4 after issue of notice have filed their reply on 11.5.2018 raising preliminary objection on the issue that since the applicant is claiming herself to be the wedded wife of the deceased employee, late Shri Babu Lal and so far as the question regarding whether applicant is wedded wife of late Shri Babu Lal or not, the same is disputed question of facts and no inquiry relating to the facts can be made by this Tribunal as the same can be debated only by a Civil Court and, therefore, this Tribunal has no jurisdiction to decide such question of facts. The respondents have further stated that late Shri Babu Lal retired after attaining the age of superannuation on

31.7.1992 from the post of Pointsman-B. At that time, family details have been mentioned for grant of family pension vide Ann.A/3 and A/4. A bare perusal of the said documents clearly reveals the name of Smt. Pabu Devi, however, date of birth of Smt. Pabu Devi was not mentioned. While revising pension under 6th CPC in the relevant column, name of wife was mentioned as "नई दे" which was strike out and thereafter name of wife was mentioned as 'Babudi Devi' with date of birth as 3.5.1949. Smt. Babudi Devi has also submitted an affidavit dated 5.1.2009 to the railway authorities stating her date of birth as 3.5.1949. Revised PPO was issued in the name of the retired employee, late Shri Babu Lal and name of Smt. Pabu Devi as wife was also mentioned with date of birth as 3.5.1949. It is further stated that Smt. Naini submitted a copy of the Ration Card which was issued on 2.5.2006, wherein name of the family members shown in the Ration Card are as under:-

- | | | | |
|----|----------|----|---------|
| 1. | Naini | 49 | Self |
| 2. | Babu Lal | 54 | Husband |
| 3. | Tulsidas | 29 | Son |

The address mentioned in the Ration Card is Harijan Basti, Madho Bagh and age of Shri Babu Lal is shown as 54

whereas in the official record, the date of birth of late Shri Babu Lal is 20.7.1934 and he retired on 31.7.1992 after attaining the age of superannuation at the age of 58 years. Smt. Naini has submitted Aadhar Card whereas date of birth has been mentioned as 1.1.1950 and address is mentioned as 188, Bakhtawar Mal Ji Ka Bagh, Chopasni Road, Jodhpur. Smt. Naini has submitted a copy of Identity Card issued by the Election Commission of India, wherein the date of birth is mentioned as 16.4.1943 and address is mentioned as 110, Himmant Bhawan, Ward No.22, Tehsil, Jodhpur. The documents submitted by Smt. Naini are itself found contrary to each other and neither the date of birth nor the addresses were found to be matched and were different. As different names mentioned in the settlement papers (Smt. Pabu Devi) and documents submitted at the time of revision of pension under 6th CPC (Smt. Babudi Devi), therefore, in such compelling circumstances, the respondents vide letter dated 11.9.2014 asked Smt. Naini to submit evidence of being legitimate wife of late Shri Babu Lal (Ann.R/4). Thereafter Smt. Pabu Devi vide her representation dated 13.3.2015 submitted that she had wrongly mentioned her name as 'Naini' and now she has corrected the documents by naming herself as 'Pabu Devi'.

She has also submitted copy of Domicile Certificate issued on 13.2.2015 (Ann.A/11) and copy of Birth Certificate issued on 11.3.2015 wherein her date of birth has been mentioned as 1.1.1954. Since the documents submitted by all alleged wives are having different addresses and different date of birth, therefore, the respondents vide letter dated 31.8.2015 sought evidence regarding legally wedded wife of late Shri Babu Lal. A letter was also sent to concerned Bank from where late Shri Babu Lal was getting pension to submit nomination available with the Bank. In turn, the Bank Manager vide letter dated 8.9.2015 informed that no nomination is available with the Bank in the account of late Shri Babu Lal.

It is also submitted that Shri Shyam Lal, son of late Shri Babu Lal was in the railway department and he retired voluntarily w.e.f. 31.7.2012 from the post of Sanitary Safaiwala. As per the details available in the attestation form of Shri Shyam Lal, name of wife of late Shri Babu Lal has been mentioned as 'Babudi'. The Chief Welfare Inspector thoroughly investigated the matter and submitted its report on 14.8.2015 and was of the view that due to various facts revealed in the case, it is necessary to seek the Succession Certificate issued by the competent Civil

Court from all the alleged wives to establish legality of the rightful claim for getting pension on account of death of late Shri Babu Lal. It is further stated that Smt. Pabu Devi submitted an affidavit dated 24.5.2017 (Ann.A/9) wherein she has mentioned her age 57 years, which is also contrary to her own documents. In these compelling circumstances, the respondents vide letter dated 18.5.2017 have advised all the alleged wives to submit a Succession Certificate to release the family pension in favour of the rightful claimant, but till date neither the applicant nor two other alleged wives have submitted Succession Certificate before the railway authorities. Therefore, in these circumstances, question of applicant's marriage with late Shri Babu Lal and her being his wife is a question of fact, which can be adjudicated upon by Civil Court only and this Tribunal has no jurisdiction to decide such question of fact, therefore, the OA deserves to be dismissed on this count itself.

Respondent No.5 has filed reply dated 16.10.2018 and stated that the PPO (Ann.A/5) was presented before the respondent bank in respect of Shri Babu Lal who was the pensioner of the Union of India and pension was disbursed to Shri Babu Lal till 4.5.2014. The respondent bank is not aware about the nearest relative of late Shri Babu Lal. They

have not denied that pension account had been maintained in the name of Shri Babu Lal. On going through the copy of the PPO (Ann.A/7) it is clear that name of family pensioner has been mentioned as 'Pabu Devi' revealed as the wife of late Shri Babu Lal. After going through the affidavit Ann.A/9 i.e. affidavit as well as Ann.A/10 and A/30 which are copies of Aadhar Card/Election Card and Domicile Certificate of Smt. Pabu Devi, it is clear that Election Card has been issued in favour of Smt. Naini whereas Domicile Certificate Ann.A/11 stands in the name of Smt. Pabu Devi w/o Shri Babu Lal. Ann.A/12 is Aadhar Card of Smt. Naini having her date of birth as 1.1.1950 whereas the Election Card Ann.A/10 reveals the date of birth of Smt. Naini as 16.4.1943. On going through these documents Ann.A/12 and A/13, it reveals that Ann.A/12 relates to Naini w/o Babu Lal whereas Ann.A/13 relates to Pabu Devi w/o Babu Lal. On going through these documents/annexures it seems that Smt. Naini/Smt. Pabu Devi/Smt. Babudi/Smt. Naini Devi is not one and same lady. The respondent further states that applicant is a Harijan lady where 'Pardanasheen Pratha' is not there. They have clarified that if the respondent Nos. 1 to 4 release the pension in favour of the applicant i.e. Pabu Devi, the respondent bank has no

objection to disburse the same through pension account, but since there are several names, only a competent Civil Court to pass appropriate orders in respect of real entity of the pensioner for payment of family pension.

4. The applicant has filed rejoinder reiterating the facts stated earlier and in addition stated that entitlement of family pension is not covered by Hindu Succession Act, as the family pension is sole right of the widow under the scheme and it is not an estate of the deceased employee. The place of address is the same, which can be verified by simple enquiry and the practice of calling by nick name and in distorted form is prevalent in the conversation in the community of the applicant. Perusal of joint photograph and other photographs as seen in the Aadhar Card, Bhamashah Card and ID Card of Election Commission clearly reveals that it is the photo of the applicant i.e. Pabu Devi itself and none other lady. The applicant has relied on the judgment of Violet Issaac vs. Union of India which has been referred to in the judgment of CAT Bench, Calcutta in OA No.1164/1997 decided on 9.6.1999 wherein it has been held that rules do not provide for any nomination with regard to family pension instead the rules designate the persons who are entitled to receive the family pension, no

other person except those designated under the rules are entitled to receive the family pension. The family pension scheme is in the nature of welfare scheme framed by the railway administration to provide relief to widow and minor children of the deceased employee. Therefore, it does not form part of his estate, hence entitlement of family pension under the scheme is not covered by the Hindu Succession Act. It is the contention of the applicant that Pension Payment Authority, the FA&CAO Baroda House, New Delhi has sanctioned the family pension in the name of applicant, Pabu Devi as wife of Shri Babu Lal eligible for family pension in the event of death of the applicant's husband Shri Babu Lal. The applicant further stated that the confusion which has been developed in the office of respondents is due to the fact that the claim of family pension has been made by different names and different addresses, but all the three names are of the applicant as well as addresses are of one and the same person and the same place. The applicant has also submitted an affidavit to this effect stating that all the three names mentioned in several documents are of one and the same person. It is only due to the fact that the applicant is illiterate and belongs to down trodden community, she is unable to know

what has been stated in a particular document and is completely unaware about the date of birth also mentioned by the authorities in the said documents that confusion prevails amongst the respondents. The applicant further states that it is irrelevant to direct the applicant to submit Succession Certificate on illogical and baseless grounds raised by them. The family pension is to be paid to the applicant as her name has been clearly mentioned in the PPO of late Shri Babu Lal and she is the only person eligible for family pension. Further, applicant's husband submitted application in prescribed format for revision of pension after 6th CPC and bare perusal of this form also reveals that the form is filled by some less literate person as husband of the applicant was also illiterate and so by overhearing the name of the applicant in distorted form, the said person may have mentioned as 'Babudi Devi'. The joint photograph of the applicant and her husband pasted at the time of retirement on superannuation reveals that the applicant is wife of Shri Babu Lal. Pertaining to the query raised about different addresses, it is stated that the same can be corroborated by deputing Welfare Inspector to ensure that Madho Bagh Harijan Basti and Bakhtawar Mal Ji Ka Bagh are one and the same place. The respondents have not noted a common

fact that name of Shri Babulal, husband of the applicant and name of Tulsidas, son of the applicant, are common in the details submitted by the husband of the applicant and Ration Card. It is stated that the applicant belongs to traditional illiterate family of backward caste, therefore, the wrong name have been mentioned, but there is no iota of doubt to deny that the applicant is the only legally wedded wife of late Shri Babu Lal. Since there was mistake in the Aadhar Card, which was rectified. Therefore, the respondents are duty bound to pay family pension of the applicant as there is no other claimant for such pension except the applicant alone and it is due to illiteracy and by mistake that the name of the applicant is being spelt as Naini, Pabu Devi, Babudi, Badudi Devi etc. and different addresses exist at different places and also date of birth differs in the documents, which may be ignored and the respondents shall pay the family pension to the applicant at the earliest.

5. In support of their respective contentions, the respondents have filed additional affidavit on 27.8.2018 and the applicant has also filed reply to the additional affidavit on 6.9.2018.

6. Heard the learned counsel for the parties and perused the material available on record.

7. In the instant case, the dispute appears to be with regard to different names and addresses of the claimant of family pension and it seems to be on account of illiteracy or lack of knowledge of the husband of the applicant and the applicant herself and since the applicant is unable to read what name of her is mentioned by the person preparing the document. Different documents got prepared with different names and addresses and accordingly, it appears that the applicant claimed family pension with different names/nick names as she did not know what exact name is entered in the record of the respondents, which has created confusion at the end of the respondents and resultantly, she is not being paid the family pension. The further confusion is with regard to different names of the same place and also about the date of birth. On knowing the mistake in the name and date of birth, some of the documents have been got corrected and affidavit (Ann.A/9) in this regard has also been submitted to the respondents. The stand of the respondents is that they have received claims for family pension from three claimants by different names being wife of late Shri Babu Lal, but they could not make it clear

whether there exist three different claimants or the claimant is the same with different nick names. Without establishing three different claimants, asking for Succession Certificate by the respondents, is not justified. The respondents did not dispute that name of Smt. Pabu Devi is entered in the PPO issued by the competent authority and in support of her claim, the applicant has got corrected Aadhar Card in the name of 'Pabu Devi' mentioned in the PPO instead of 'Neni with the same address and number. The applicant has produced three different copies for Aadhar Cards No.7443-9887-7907 for perusal of this Tribunal. On going through these Aadhar Cards, it reveals that one is issued in the name of Neni W/o Babu Lal, 188, Bakhtawar Mal Ji Ka Bagh, Chopasani Road, Jodhpur with date of birth 1.1.1950, the second is issued in the name of Pabu Devi D/o Babu Lal, 188, Bakhtawar Mal Ji Ka Bagh, Chopasani Road, Jodhpur with date of birth 1.1.1950 and the third one is issued in the name Pabu Devi W/o Babu Lal, Madhobagh, Harijan Basti, Jodhpur with date of birth 1.1.1954. From the copies of different cards, it is evident that the mistake in the name and address and date of birth has been rectified without change of Aadhar Number and photo of the applicant i.e. Pabu Devi. The applicant states

that Madho Bagh Harijan Basti and Bakhtwawar Mal Ji Ka Bagh are two names of one place. Perusal of Aadhar Card at Ann.A/12 and A/13 reveals that the Aadhar Card in the name of the 'Neni' has been corrected with the name of 'Pabu Devi' with same address and number.

8. In the above facts and circumstances, I feel it appropriate in the interest of justice to direct the respondents to depute a Welfare Officer/Inspector, who shall visit and meet all the different claimants on the different addresses to verify the genuineness of the claim for family pension of all those persons and submit his report to the competent authority for further necessary action within a period of two months. If the respondents are satisfied on the basis of the report of the Welfare Officer/Inspector that only one claimant exists with different address, name and date of birth, the claim of family pension of the applicant be settled without asking for Succession Certificate within a period of two months thereafter. In the event of existence of three different claimants, the respondents are at liberty to ask for Succession Certificate from the competent court for disbursement of family pension to the rightful claimant.

9. I have gone through the judgments referred to by the respondents as well as the judgments relied by the applicant in support their contentions, but the same are not applicable to the facts and circumstances of this case.

10. The OA stands disposed of in above terms with no order as to costs.

(HINA P.SHAH)
Judl. Member

R/