

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. OA 350/00975/2016

Date of order : 3.8.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr.P.K.Pradhan Administrative Member

HADIQUN NISHA

VS

UNION OF INDIA & ORS. (S.E.RLY.)

For the applicant : Mr.S.Khanra, counsel

For the respondents : Mr.B.Chatterjee, counsel

O R D E R

Ms.Bidisha Banerjee, J.M.

The Id. Counsels for the parties were heard and materials on record were perused.

2. This application is filed by the applicant seeking the following reliefs :

- a) An order thereby directing the respondent Nos. 2 to 5 to pay and disburse 1/3rd amount of the total retiral dues of the private respondent No.6 straightway to the applicant herein and to pass a further order thereby directing the respondent Nos. 2 to 5 to pay and disburse 1/3rd of the pension of the respondent No.6 directly to the applicant herein;
- b) An order or orders thereby directing the respondent Nos. 2 to 5 to certify and transmit to this Hon'ble Tribunal all relevant records of the present case and upon perusal thereof to pass necessary orders;
- c) Order or orders prohibiting the respondent Nos. 2 to 5 from paying and/or disbursing 1/3rd of the superannuation dues of the private respondent No.6 without the leave of this Hon'ble Tribunal as also to further prohibit them from making payment in respect of 1/3rd pension of the private respondent No.6 without leave of this Hon'ble Tribunal;

3. The grievance of the applicant in a nutshell is as under :

The applicant is the legally married wife of Janab Emamul Haque, an employee of South Eastern Railway, respondent No.6 in the present OA. Out of the wedlock three children were born - Ehsanul Haque (son), Nasima Khatun (daughter) and Rashida Khatun (daughter). The husband of the applicant has all through treated the applicant with extreme physical and mental cruelty. The employee conducted his second marriage with one Shakila Bibi and stopped

financial assistance towards the present applicant and her children. On being compelled by the situation the applicant lodged a General Diary on 25.2.07 in the West Port Police Station and submitted a representation to the respondent No.5 on 12.9.11 requesting to arrange for financial assistance.

The employee was issued a show cause notice and in reply the employee submitted that he was paying a sum of Rs.3000/- per month to the applicant. The respondent No.5 therefore refused to entertain the complaint of the applicant on the plea that the employee was paying Rs.3000/- to the applicant.

The applicant has come to know that her husband will retire on superannuation on 30.6.16. She therefore submitted a representation dated 13.6.16 before the respondents praying for disbursing 1/3rd of the total retiral dues. The representation is still pending before the respondent authorities.

4. The pleadings were duly noted. In as much as the employee is alive and is entitled to enjoy his own pensionary benefits unless a bar under Rule 8 or 9 of RS (Pension) Rules or otherwise come into play, the applicant's plea for grant of 1/3rd of total retiral dues of the employee is not tenable.

5. She is however, not remediless as she can always approach appropriate Criminal Court for maintenance under Section 125 of Cr.PC, etc. if so advised.

6. Accordingly the OA is dismissed as not maintainable. No order is passed as to costs.



(P.K.PRADHAN)
MEMBER (A)

in



(BIDISHA BANERJEE)
MEMBER (J)