

LIBRARY**CENTRAL ADMINISTRATIVE TRIBUNAL****CALCUTTA BENCH**

Original Application No.350/1517/2016

Date of Order: 7.9.18

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

Smti Mallika Majhi,
 Wife of Late Annda Mohan Majhi,
 aged about 57 years residing at Bhawanpore
 (North) Kali Mandir,
 Kali Mandir Road, Ward No.6, Kharagpur,
 Post Office-Kharagpur,
 District-Paschim Midinipur Pin-721301

Applicant

-Vs-

1. Union of India
 Through the General Manager,
 South Eastern Railway, Garden Road,
 Kolkata 700043.
2. The Chief Material Manager, (General store),
 South eastern Railway, Kharagpur, Pin 721301.
3. The Assistant Personnel Officer(s),
 South Eastern Railway
 Kharagpur, under Deputy Chief Material Manager,
 Kharagpur-721301.
4. Smti Usha Rani Majhi,
 C/O Kalyan Kumar Seth, Uttar Bidhan
 Pally (Ghosh para),
 P.O.-Kharagpur, Dist-Paschim Midinipur,
 Pin-721301.

... Respondents.

For the applicant: Mr.A.Chakrabroty & Ms.P.Mondal

For the respondents: Mr.S.K.Ghosh



ORDER**MANJULA DAS, MEMBER (J):**

The applicant approached before this Tribunal vide this O.A. under Section 19 of the CAT, 1985 with the following reliefs:-

- (a) An Order do issue directing the respondents to grant family pension in favour of the applicant with effect 02.10.2010 and to pay the arrears.
- (b) An order to issue directing the respondents to release the settlement dues with interest @ 18% per annum.


2. Heard Mr.A.Chakraborty assisted by Ms. P.Mandal learned counsel for the applicant and Mr.S.K.Ghosh, learned counsel for the respondents.

3. Mr.A.Chakraborty, learned counsel for the applicant submits that the applicant's husband who was a Railway employee and was working as Head Clerk under Dy. CMM/Kharagpur died on 02.10.2010. After death of her husband, the applicant made representation before the concerned authority with prayers to grant the Family Pension and the settlement dues of her late husband. On



being received the representation, the respondent No.3 intimated the applicant that one lady Ms.Usha Rani Majhi also submitted an application for payment of settlement dues of deceased employee late Ananda Mohan Majhi claiming herself as wife of late Ananda Mohan Majhi. Accordingly, the competent authority asked both i.e the applicant as well as Usha Rani Majhi to submit Succession Certificate in their favour from the Court of law.

4. It was submitted by the learned counsel that as per advice of the department, the applicant along with her son and daughter filed a Succession Certificate Case No.10/2011 before the learned District Delegate at Paschim Medinipur by impleading Smti Usha Rani Majhi, Bithika Bhuyan and office of the Dy.CMM as opposite parties. The learned District Delegate after hearing the case was pleased to allow the Succession Case vide order dated 19.8.2013 in favour of the applicant that is Mallika Majhi and son and daughter and issued the Succession Certificate in favour of them.



5. Thereafter, Smti Usha Rani Majhi filed a Misc. Appeal No.104 of 2013 before the Additional District Judge, Paschim Medinipur, where the learned Judge dismissed the said Misc. Appeal No.104 of 2013 vide order dated 21.3.2016 by affirming the order dated 19.8.2013 passed by the learned District Delegate.


6. It was submitted by the learned counsel that Smti Usha Rani Majhi through advocate's notice of Shri Lalit Kr. Jaiswal dated 25.5.2016 intimated the Railway authority that against the order dated 21.3.2016 passed in Misc. Appeal No.104 of 2013, his client Ms. Usha Rani Majhi will file a case before the Hon'ble High Court. Hence requested to stay their hands in the matter for time being.

7. It was submitted by the learned counsel that the Railway authority i.e Respondent No.3 vide office order dated 9.7.2016 advised the applicant to report the office to complete the formalities for payment of settlement dues of Late Ananda Mohan Majhi. According to the learned counsel, in the Railway records i.e Service Book, Declaration Form, Group Insurance Scheme, PF and Medical Cards, the



name of the applicant is shown as wife of the deceased employee and also nominated to receive the admissible amount of her husband Late Ananda Mohan Majhi.


8. Mr.A. Chakraborty, learned counsel argued that the Railway Authority despite repeated requests of the applicant did not settle the dues to be paid to the applicant though her name was recorded in the relevant records, that is, in Service Book, Declaration Form, GPF, Medical records. Moreover, in the trial Court as well as in appellate and in the succession case, the order has been passed in favour of the applicant. After passing of the order by the trial court as well as Appellate Court in favour of the applicant, the pension as well as settlement dues ought to have been released. However, no steps have been taken by the respondents authority. As per Hindu rites and customs, the marriage between them was solemnised on 13.02.1978. After marriage they resided together as husband and wife and from the said wedlock, one female child Bithika was born on 12.03.1980 at the native place of Ananda Mohan Majhi (since deceased).



9. The private Respondent No.4 i.e Smti Usha Rani Majhi has filed written argument on 26.4.2018. However, none represented on behalf of her or herself is present. According to Respondent No.4 she is the legally married wife of deceased Railway employee late Ananda Mohan Majhi.

10. It was stated that immediately after the birth of the female child, the respondent No.4 was driven out from her matrimonial home and was forced to live at her father's house. Thereafter, the deceased employee recorded the name of his daughter Bithika in his railway records. Meanwhile, the deceased employee developed an illicit relationship with the applicant No.1 and from such illicit relationship, two sons were born.

11. The respondent No.4 further stated that after death of her husband late Ananda Mohan Majhi, she applied before the concerned respondent authorities for release of the settlement benefits of her deceased husband. However, she was informed that the applicant in the instant O.A. and herself submitted individual



applications for the payment of settlement dues of late Ananda Mohan Majhi, hence, they are required to obtain Succession Certificate from a competent court of law for the disbursement of family pension. The applicant No.1 filed Succession Case No.10 of 2011, where the private respondent No.4 i.e Ms.Usha Rani Majhi appeared and contested by filing written objection to the same on 19.8.2013. The learned court was pleased to allow the Succession Certificate in favour of the applicant No.1. Thereafter, the Respondent No.4 preferred an appeal which was transferred to the learned Addl. District Judge, 4th Court, Paschim Medinipur which was dismissed. Thereafter, the Respondent No.4 immediately filed a Civil revisional case being C.O.No.2356 of 2016 before the Hon'ble High Court, Kolkata against the order passed in the Miscellaneous Appeal being Misc. Appeal 104 of 2013.

12. It was further stated that the Respondent No.4 filed a Civil Suit being Suit No.138 of 2016 for declaration and injunction where the applicant No.1 has also been made a party for final adjudication to declare herself as the legally



married wife of Ananda Mohan Majhi (since deceased). It was stated in the written argument by Respondent No.4 that the applicant made a frivolous application before this Tribunal, as such, the same is liable to be dismissed with costs.

12. On the other hand, the learned counsel Mr. S.K.Ghosh, who appeared for official respondents by filing reply on 12.6.2017 submitted that while the deceased employee late Ananda Mohan Majhi submitted declaration form on 06.09.1985, the name of Smti Mallika Majhi has been shown as wife, Sri Subrata Kumar Majhi shown as son and Kumari Bithika Rani Majhi as unmarried daughter.

13. The deceased employee, later on, by submitting an application dated 17.2.2003 requested to delete his daughter's name Kumari Bithika Majhi from the declaration form as she was got married.


Accordingly, his daughter's name has been deleted from the pass declaration on 17.2.2003.



Mr.S.K.Ghosh, submitted that the deceased employee submitted another pass declaration on 29.6.1995 declaring dependent Ms. Sampati Majhi as unmarried daughter.

14. It was submitted by the learned counsel that after expiry of Ananda Mohan Majhi, two claimants submitted their applications with documents claiming as wives. One Smti Usha Rani Majhi submitted her application dated 26.11.2010 wherein she is claimed herself legally married wife of Late Ananda Mohan Majh. She also stated that they (she and her husband named Ananda Mohan Majhi) had an issue of female named Bithika Majhi.

15. Mr.Ghosh submitted that as per the office record, Ananda Mohan Majhi submitted nomination in favour of Smt. Mallika Majhi for PF as well as GIS while in service. Both claimants were filed their succession certificate before the competent court of law for payment of settlement dues. Smt. Mallika Majhi filed Succession Case No.10/2011 before the Ld.District Judge impleading Smti Usha Rani Majhi , wife and Smti.Bithika Majhi Daughter as opposite parties. The



District Court passed an order dated 10.09.2013 in favour of Smti Mallika Majhi. Thereafter, Smti Usha Rani Majhi, being aggrieved, has filed Misc. Appeal No.104/2013 before the Ld. Additional Judge 4th Court which was dismissed by the learned Additional District Judge, Paschim Medinipur. Therefore, Mallika Majhi submitted her application on 3.4.2013 requesting to release the settlement dues in her favour as per succession Certificate.

16. It was submitted by the learned counsel that an advocate notice was issued to the department with intimation that against the order dated 31.3.2016 passed by the learned Addl.District Judge approached before the Hon'ble High Court, Kolkata vide C.O.No.2356/2016 and the same is pending for final disposal. According to the learned counsel, the nominee of legal wife of deceased Ananda Mohan Majhi is not finalized till now.

17. Heard learned counsel for the parties. Perused the pleadings and materials placed before me.

18. The issue involved in the present case is as to whether the applicant is entitled to get family pension and



other settlement dues of deceased employee late Ananda Mohan Majhi. Late Ananda Mohan Majhi who was an ex-employee of the Railway died on 2.10.2010 while he was in service. After death of the deceased Railway employee, the present applicant as well as the Respondent No.4 both approached before the Railway authority with a request to make payment of settlement dues of their deceased husband late Ananda Mohan Majhi claiming as widow.

19. As the dispute arises before the Railway authority regarding the entitlement of Family Pension and other benefits of deceased employee of Ananda Mohan Majhi, the Railway authority advised both the lady to submit Succession Certificate in favour of the claimant. Thereafter, the applicant No.1 filed Succession Case No.10 of 2011 before the Learned District Judge and by allowing the said Succession Case on 19.3.2013 in favour of applicant Smti Mallika Majhi, the learned District Judge has passed orders as here under:



"Accordingly, it is ORDERED

That the Succession case is allowed. Issue Succession Certificate as prayed for by the petitioner, after necessary formalities are complied with.

Dictated & corrected by me.

Sd/ Sri Sujit Kumar Jha
District Delegate
Paschim Medinipur
District Delegate
Paschim Medinipur

Sd/ Sri Sujit Kumar Jha
District Delegate
Paschim Medinipur"

20. It is noted that in the said case, Smti Usha Rani Majhi who claimed as a wife of late Ananda Mohan Majhi was made as opposite party No.1.

21. It is further noted that being aggrieved with the above order dated 19.3.2013 passed by the Ld. District Delegate, Ms. Usha Rani Majhi preferred a Misc. Appeal No.104 of 2013 before the Additional District Court. The learned court of Addl.District Judge vide order dated 21.3.2016 dismissed the said appeal which reads as here under:-

"Hence, it is ORDERED

That the Misc. Appeal No.104/2013 be and the same is dismissed on contest without cost.

The Judgment and order No.32 dated 19.8.2013, passed by the Ld.District Delegate,



Paschim Medinipur in Succession Certificate Case No.10/2011 is hereby affirmed."

22. Smti Usha Rani Majhi being further aggrieved with the order passed by the learned Addl.District Judge, Paschim Medinipur, approached before the Hon'ble Kolkata High Court vide C.O.No.2356 of 2016 where the Hon'ble High Court vide order dated 21.3.2017 dismissed the case which reads as here under:

"Upon such observations, the revisional application stands dismissed affirming the judgment dated 21st March, 2016 passed by Learned Additional District Judge, 4th Court, Paschim Medinipur in Misc. Appeal No.104 of 2013 affirming the order dated August 19, 2013 passed by learned District Delegate in Succession Certificate Case No.10 of 2011"

This Tribunal in earlier occasion vide order dated 17.4.2018 directed the learned counsel Mr.S.K.Ghosh who appeared for the official respondents to furnish the relevant papers/records including Service Book of the applicant. Accordingly, Mr.Ghosh, produced the relevant records vide Memo dated 26.4.2018 which are taken on records.

23. The decision in regards to the Succession Certificate in the name of the applicant is attained finality.



From the other relevant documents and records it appears that the name of Mallika Majhi was appeared as wife and no name of the Respondent No.4 appeared in the relevant papers, i.e the Declaration Form of family members and dependent relatives for which passed PTO's are admissible in terms of IRCA Conference Rules. More so, the name of the applicant was also included as nominee in Provident Fund as well as GIS while deceased employee was in service. Hence, there is no ambiguity as recorded to the entitlement of the pension which is well settled by the decision of the Court as well as from the papers submitted by the deceased employee late Ananda Mohan Majhi while he was in service. As such, there is no impediment for granting the benefit of pension as well as the other settlement dues towards the applicant and dependent members thereon.

24. From the relevant records it reveals the following as here under:-

- a) In the document of Railway Provident Fund dated 10.8.2011 late Ananda Mohan Majhi nominated Smti Mallika Majhi showing their relationship as wife.



b) In Declaration Form the deceased Railway Employee with his due signature dated 6.9.1985 shown Smti Mallika Majhi as wife, Shri Subrata Kumar Majhi as son and Smti Bithika Majhi unmarried daughter.

c) Subsequently, 1995 in another Declaration Form, the deceased employee further included Ms.Sampati Majhi as daughter.

d) Subsequently, the deceased employee late Ananda Mohan Majhi submitted a letter to the Accounts Officer (settlement) Railway, Kharagpur with a request to the Railway authority to delete the name of his daughter Smti Bithika Majhi as she got marriage on 2nd February, 2003 (Sunday).

e) In Group Insurance Schem late Ananda Mohan Majhi nominated Smti Mallika Majhi by showing as wife to receive the amount due in favour of the applicant.

25. It is further noted that the decision in regards to the Succession Certificate which has been issued in favour of the applicant has been attained finality in view of the Court's order as discussed in the foregoing paragraphs. Nothing has been placed on record as to whether the said order dated 3.4.2017 in C.O.No.2356/2016 passed by the Hon'ble High Court, Calcutta has been challenged.

26. From other relevant records and documents as referred in the foregoing paragraphs clearly established that Mallika Majhi is the legally wedded wife of Late Ananda Mohan Majhi as much as the name of Mallika



Majhi retained the same till the death of late Ananda Mohan Majhi. The name of Respondent No.4 is nowhere appeared as wife in the service records of Late Ananda Mohan Majhi. Hence, there is no such ambiguity in deciding the entitlement factor under the law and on the basis of foregoing discussions, I am of the opinion that Smti Mallika Majhi i.e the applicant is the wife of Late Ananda Mohan Majhi and she is entitled to get the settlement dues of the deceased employee. As such, there is no ambiguity towards the applicant as recorded in Service records of the deceased employee.

27. In the above facts and circumstances and after taking into account the notes filed by the official respondents, the present O.A. stands allowed. No order as to costs.

(MANJULA DAS)
JUDICIAL MEMBER