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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 350/01663/2015

Date of Order: 17/9/18

Present: Hon'ble Mrs. Manjula Das, Judicial Member

Smt. Puspa Rani Debnath @ Manju Debnath @ Jamuna Debnath, wife of Late Haralal Debnath, aged about 56 years, by profession housewife, residing at Udayanpalli, Chunaripara Road, P.O. - Ichapur Nawabganj, P.S. - Noapara, Dist - 24 Parganas (North), Pin - 743144, West Bengal.

...Applicant

-vs-

1. Union of India service through the Secretary, Ministry of Defence, Department of Defence Production & Supply, South Block, New Delhi - 110001.
2. The Chairman, Ordnance Factory Board, 10, Shahid Khudi Ram Bose Sarani, Kolkata - 700001.
3. The General Manager, Metal & Steel Factory, Ishapore, P.O. - Ichapore Nawabganj, Dist - North 24 Parganas, Pin - 743144.
4. The Principal Controller of Defence Accounts (P), Draupadighat, Allahabad, Pin - 743249, U.P.
5. The Chief Manager, Allahabad Bank, Zonal Office, Barasat, Dist - North 24 Parganas, Pin - 700120.

6. Smt. Puspa Debnath, residing at Village –
Narikela, Post & P.S. – Ghaighata, Dist –
North 24 Parganas, Pin – 743249.

...Respondents

Advocate for the Applicant : Mr. J.R. Das
Advocate for the Respondents : Mr. P. Mukherjee
Mr. A. Chakraborty

ORDER

MRS. MANJULA DAS, MEMBER-(J):

Being aggrieved with the communication dated 25.11.2009, the applicant has approached this Tribunal by filing the instant application under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:

- "8(i) An order directing the respondents to cancel withdraw, rescind and set aside the purported letter/order dated 25.11.2009 by the Bank Authority and/or any other order/letter by similar or other authorities rejecting/regretting the due family pension in favour of the applicant herein in contrary to the principles of natural justice.
- (ii) An order directing the respondents to effect/release the due family pension to the applicant herein from the date it was stopped, in the interest of justice.
- (iii) An order directing the respondents to recognize the applicant as the only legitimate wife of late Haralal Debnath based on record of marriage

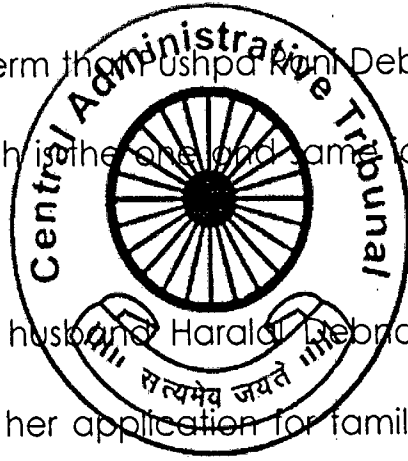
registration as also nomination of late Haralal Debnath during his lifetime vis-à-vis record of verification through recorded finger prints of right hand of the applicant.

- (iv) An order directing the respondents to pay the arrears of pension and pensionary benefits including the interest as per rules.
- (v) An order directing the respondents to place all the relevant records before the Hon'ble Bench for conscionable justice.
- (vi) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

2. Brief facts narrated by the applicant in her case are that she is the widow of Late Haralal Debnath, an ex employee of the respondent department. According to her, the marriage was solemnized under Special Marriage Act, 1954 (43 of 1954) on 08.07.1992 and also as per Hindu rites and customs. She lived with her husband till the last day of his life on 30.11.2007 and thereafter his death, she has performed all the rituals of a Hindu widow including Mukhagni, Sradh Ceremony and others. As she is being legally married wife, she is entitled for family pension which has been denied by the respondent No. 5. Hence she has approached before this Tribunal by filing the instant O.A. for redressal of her grievances.

3. Heard Mr. J.R. Das, learned counsel for the applicant, Mr. P. Mukherjee, learned counsel for the official respondents and Mr. A. Chakraborty, learned counsel for the respondent No. 6.

4. Mr. J.R. Das, learned counsel appearing on behalf of the applicant submitted that the applicant has been made nominee by the deceased employee Late Haralal Debnath in the "Form A" to the Branch Manager, Allahabad Bank, North Barrackpur Branch being his wife on 19.06.2004. She was known by different names at her ancestral house and her matrimonial house and to remove any confusion whatsoever in this regards, the applicant has duly prepared an Affidavit before the Ld. Judicial Magistrate 1st Class at Barrackpore, District North 24 Parganas on 15.12.2007 stating clearly in an unambiguous term that Pushpa Devi Debnath, Manju Debnath and Jamuna Debnath is the one and same identical person, being the applicant herein.



After demise of her husband Haralal Debnath on 30.11.2007, the applicant submitted her application for family pension to the Bank Authority. Thereafter, the applicant had duly been allowed with the said family pension due to her late husband Haralal Debnath. However, suddenly the pension of the applicant was stopped by the respondent No. 5 vide impugned communication dated 25.11.2009 without asking for any show cause to the applicant and without considering the fact that the applicant is wholly dependent on the said pension amount for her very existence. The applicant represented the matter to the authority through learned Advocate

vide letter dated 25.11.2009 stating all details. However, the respondent authority did not respond to her grievance.

5. Being aggrieved, the applicant approached the Ld. District Consumer Disputes Redressal Forum for North 24 Parganas District at Barasat, instead of this Tribunal. The Ld. District Consumer Disputes Redressal Forum vide judgment dated 05.10.2012 directed the applicant to approach the right forum being this Tribunal. According to the learned counsel, the authorities concerned disabled themselves in reaching to a fair decision by some extraneous consideration to the evidence and/or merit of the case. Further the authorities acted in flagrant disregard to the rules of the principles of natural and procedural justice and also the extant rules of the Government and the Department. Unnecessarily harassed and humiliated the applicant.



6. Learned counsel further submitted that the applicant being legally married wife is entitled for her legitimate claim of pension and by denying the family pension to the applicant is un just and as such, impugned order dated 25.11.2009 cannot be sustained.

7. In the present case, one private respondent No. 6, that is, Pushpa Rani Debnath, impleaded as party respondents in the proceedings whom behalf learned counsel Mr. A. Chakraborty

appeared and submitted that in the instant O.A., the applicant herein who claimed to be the wife of the Late Haralal Debnath, illegally and all facts stated in the said O.A. are vague, fabricated, frivolous and not legal. The original fact is that the private respondent No. 6 is the legally married wife and legal heirs of the deceased Haralal Debnath. The applicant never got any pension by the authority concerned and the respondent No. 6 submitting all the legal documents and proves her identity to the authority concerned with an order obtained from this Tribunal and getting pension after fulfilling the entire requirement and presently satisfied with the documents and order of this Tribunal, she is getting pension from the competent authority. During the lifetime of deceased husband, she was getting pension from the competent authority in the Bank Account/competent authority and the respondent No. 6 is absolute and legally and lawful wife of Late Haralal Debnath supporting her legal claim. According to Mr. Chakraborty, the prayers made in paragraph 8 are strongly denied and disputed. The O.A. is devoid of any merit and liable to be dismissed.

8. The official respondents are represented by Mr. P. Mukherjee, learned counsel who filed the reply to the O.A. on 05.09.2016. It was submitted by Mr. Mukherjee that Shri Haralal Debnath (deceased husband of the applicant) joined Metal & Steel Factory, Ishapore (in short MSF) as Labourer 'B' with effect from

01.07.1977 as an Ex-Serviceman. Before joining MsF, Shri Debnath, had duly filled Attestation Form on 30.03.1977 for Police Verification wherein he mentioned name of his wife as Smt. Pushpa Rani Debnath, Vill – Narikela, P.O. – Gaighata. Immediately after joining duty at MSF, Shri Haralal Debnath had submitted "Form-V for nomination for benefits under the Central Govt. Employees' Insurance Scheme" on 14th December, 1977 nominating his wife Smt. Pushpa Rani Debnath, Vill – Narikela, P.O. – Gaighata, Dist – 24 Parganas as Principal Nominee and Shri Rakesh Debnath, son, vill – Narikela, P.O. – Gaighata, Dist – 24 Parganas as Contingent Nominee. The deceased employee further submitted details of family for family pension and nomination form for Death-cum-Retirement Gratuity on 27.02.1997 nominating his wife Smt. Pushpa Rani Debnath, Vill – Narikela, P.O. – Gaighata, Dist – 24 Parganas as Principal Nominee and Shri Rakesh Kumar Debnath, son as Contingent Nominee.



9. Mr. Mukherjee further submitted that deceased employee also submitted Form of Nomination for General Provident Fund nominating Smt. Pushpa Rani Debnath, Vill – Narikela, P.O. – Gaighata, Dist – 24 Parganas, West Bengal as Principal Nominee and Shri Rakesh Kumar Debnath, son as Contingent Nominee. The deceased employee, before his retirement from service, once again submitted details of family for Family Pension and Nomination Form

for Death-cum-Retirement Gratuity on 31.10.2003 nominating Smt. Pushpa Rani Debnath as Principal Nominee and Shri Rakesh Kr. Debnath, son as Contingent Nominee. Accordingly, pension papers were processed and forwarded to Principal Controller of Defence Accounts (Pension), Allahabad, for issuance of Pension Payment Order. Pension Payment Order dated 02.04.2004 was issued in favour of Sri Haralal Debnath and he started withdrawing pension from 01.06.2004 being superannuated from service with effect from 31.05.2004.

10. According to Mr. Mukherjee after death of Shri Debnath on 30.11.2007, Smt. Pushpa Rani Debnath, the applicant herein, used to draw family pension from the said Bank in accordance with the aforesaid Pension Payment Order dated 02.04.2004. In the meantime, another lady having same name i.e. Smt. Pushpa Rani Debnath of Vill - Narikela, P.O. - Gaighata, Dist - 24 Parganas (North), stated to be legally married wife of Shri Debnath, claimed family pension and other pensionary benefits of her deceased husband vide her Advocate's letter dated 12.12.2007. In response, the respondent No. 3 (MSF, Ishapore) vide communication dated 28.06.2008 had suggested the said lady to approach before Allahabad Bank, North Barrackpore Branch i.e. Pension Disbursing Authority. Thereafter, Smt. Debnath of Gaighata approached before the said Bank Authority for redressal of her grievance. Accordingly,



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to mitigate the dispute, the said Bank authority forwarded one communication dated 05.08.2008 to respondent No. 4 i.e. PCDA (P), Allahabad for their guidance. In turn, PCDA (P), Allahabad, vide their communication dated 05.11.2008 advised respondent No. 3 (MSF) to verify the matter and certify the genuineness of those ladies from the Civil Authority and intimate the said Bank Authority under intimation to PCDA (P), Allahabad.

11. It was further submitted by Mr. Mukherjee that the respondent No. 6 vide her letter dated 27.03.2009 addressed to Allahabad Bank, North Barrackpore Branch intimated that one illegal and second wife named Manju Debnath by pasting photograph in her place, illegally drawing family pension in the name of Smt. Pushpa Rani Debnath. Accordingly, the said Bank suspended the family pension w.e.f. December 2009 onwards in favour of the applicant herein. The matter was referred to the Superintendent of Police, North 24 Parganas, Barasat, vide MSF communication dated 21.06.2011 with request to verify the matter and certify the genuineness of those ladies. However, the Superintendent of Police, Barasat, had forwarded report dated 20.03.2012 submitted by S.I. Police, Noapara P.S., wherein it was clearly mentioned that Smt. Manju Debnath, the applicant herein (i.e. Smt. Pushpa Rani Debnath of Chunaripara) is the 2nd wife and Smt. Pushpa Rani Debnath of Gaighata is the 1st wife of Late Haralal Debnath and Smt. Manju



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Debnath resided at Chunaripara with Haralal Debnath and Smt. Pushpa Rani Debnath and her son Rakesh Debnath are residing at Gaighata.

12. Mr. Mukherjee has drawn our attention to para 6.14 of reply of the official respondents and submitted that Smt. Pushpa Rani Debnath, of Gaighata i.e. 1st wife of Late Haralal Debnath had filed O.A. No. 350/00443/2015 inter alia praying for direction upon the respondents to release the family pension in her favour as per law. Ultimately, this Tribunal vide its order dated 20.07.2015 disposed of the said O.A. with specific direction the applicant to produce documents as specified in Allahabad Bank's communication dated 15.01.2015 to the said Bank Authority within 15 days from the date of receipt of the order, whereupon the Bank Authority, within 15 days thereafter, shall do the needful to redress the applicant's grievance as per law. The applicant herein, i.e. 2nd wife of Late Haralal Debnath, has also filed the instant O.A. after 6 years from the cause of action (i.e. from the date when the family pension was stopped in her favour by the Bank Authority vide letter dated 25.11.2009).

13. Mr. Mukherjee further submitted that the Pension Disbursing Bank (i.e. Allahabad Bank, North Barrackpore Branch) suspended the family pension w.e.f. December 2009 onwards in favour of the applicant based on complaint made by Smt. Pushpa

Rani Debnath of Gaighata (i.e. 1st wife of Late Haralal Debnath) that the applicant herein i.e. Smt. Manju Debnath had submitted false affidavit before the respondent authority for giving her identity as Smt. Pushpa Rani Debnath with clear intention to claim family and retiral benefits after death of Haralal Debnath, Ex-Govt. employee. Moreover, the applicant herein, being the 2nd wife, is not entitled for family pension as a legally wedded wife in accordance with the clarification furnished by the Department of Pension and Pensioner's Welfare vide letter dated 04.03.1987.

14. Mr. Mukherjee further submitted that the Enquiry Report dated 20.03.2012 submitted by S. Police, Moopara P.S. it is revealed that the applicant herein is the 2nd wife of Late Haralal Debnath and Smt. Pushpa Rani Debnath of Gaighata is the 1st wife. Further it is evident from the Marriage Registration Certificate dated 23.01.1995 that real name of the applicant is 'MANJU DEBNATH' and for getting family pension and all pensionary benefits of Haralal Debnath, ignoring legally married wife who is still alive and not divorced, she changed her name to 'Pushpa Rani Debnath'.

15. Having heard the learned counsel for the parties, perusal of the pleadings and the material placed before me, the points to be decided on the subject of the real claimant of family pensioner



of deceased employee Late Haralal Debnath. For ascertaining the facts, I am in hand the following documents:

- (i) The attestation form dated 29.03.1977, annexed as A-R/1 to the reply filed by the official respondents where the name of Puspo rani Debnath, Vill - Narikela, P.O. & P.S. - Gaighata, Dist - 24 Parganas, West Bengal has been shown as wife of deceased Late Haralal Debnath.
- (ii) Form - V, that is, Nomination Form for benefits under the Central Govt. Employees' Insurance Scheme dated 14.12.1977 wherein the name of Smt. Puspo rani Debnath, Vill - Narikela, P.O. & P.S. - Gaighata, Dist - 24 Parganas, West Bengal has been shown as wife of deceased Late Haralal Debnath and Rakesh Debnath, Vill - Narikela, P.O. & P.S. - Gaighata, Dist - 24 Parganas, West Bengal as son.
- (iii) In the Form - V which is Nomination for Death cum Retirement Gratuity dated 27.02.1997, the details of family are shown as hereunder:
 - (a) Smt. Puspa Rani Debnath - wife - 40 years.
 - (b) Sri Rakesh Kumar Debnath - son - 23 years.
- (iv) In the Form of Nomination dated 27.02.1997 for General Provident Fund, annexed as A-R/3 of the reply of official respondents, Smt. Pushpa Rani Debnath, Vill - Narikela, P.O. - Gaighata, Dist - North 24 Parganas, West Bengal, wife, shown as Principal Nominee and Shri Rakesh Kumar Debnath, son, shown as Contingent Nominee.

16. It is further noted that before retirement of Late Haralal Debnath, once again he submitted details of Family Pension and Nomination Form for Death-cum-Retirement Gratuity on 31.10.2003 on which with his due signature shown as Smt. Pushpa Rani Debnath

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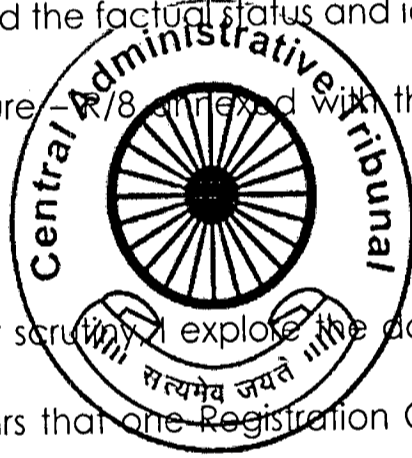
as wife and Principal Nominee and Shri Rakesh Kr. Debnath as son and Contingent Nominee. Thereafter, after submission of the pension papers, the authority forwarded the pension paper to Principal Controller of Defence Accounts (Pension), Allahabad for issuance of Pension Payment Order where the pension was sanctioned vide Pension Payment Order No. FYS/16822/2004 dated 02.04.2004 in favour of Sri Haralal Debnath and he was withdrawing pension from the Allahabad Bank from 01.06.2004 being superannuated from service w.e.f. 31.05.2004.

17. The dispute arose as and when another lady claimed as widow of Late Haralal Debnath, identifying herself as Smt. Pushpa Rani Debnath, Vill - Harikela, P.O. - Goghata, Dist - 24 North Parganas, West Bengal and being legally married wife, claimed family pension and other pensionary benefits of her deceased husband vide her Advocate's letter dated 12.12.2007. In response to that, the respondent No. 3 vide communication dated 28.06.2008 suggested the said lady to approach before Allahabad Bank, North Barrackpore Branch i.e. Pension Disbursing Authority. Thereafter, said lady Smt. Debnath approached before the said Bank Authority for redressal of her grievance. In turn, PCDA (P), Allahabad, vide its letter dated 05.11.2008 advised the respondent No. 3 (MSF) to verify the matter and certify the genuineness of those ladies. Thereafter, the matter was referred to the Superintendent of Police, North 24



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Parganas, Barasat, vide MSF communication dated 21.06.2011 with request to verify the matter and certify the genuineness of those ladies. The Police Authority submitted the Police Report mentioning that Smt. Manju Debnath, that is, the applicant herein (i.e. Smt. Pushpa Rani Debnath of Chunaripara) is the 2nd wife and Smt. Pushpa Rani Debnath of Gaighata is the 1st wife of Late Haralal Debnath and Smt. Manju Debnath resided at Chunaripara with Haralal Debnath and Smt. Pushpa Rani Debnath and her son Rakesh Debnath are residing at Gaighata. The Police Report dated 20.03.2012 ascertained the factual status and identity of the ladies as appeared at Annexure - 7/8 annexed with the reply of the official respondents.



18. For further scrutiny, I explore the documents and records from where it appears that one Registration Certificate of Marriage under Section 15 of the Special Marriage Act 1954 (43 of 1954) was issued by the Marriage Officer, Barasat Sub-Division, Dist - North 24 Parganas, para 6 of which reads as follows:

"6.A ceremony of marriage was performed between Haralal Debnath and Manju Debnath on 8th July 1992 at Chunaripara, P.O. - Ishopore, P.S. - Noapara, Dist - N. 24 Pgs. And we declare that we have been living together as husband and wife ever since the date noted above."

19. In the said certificate, signature of Haralal Debnath shown as "Husband" and Manju Debnath as "Wife". Accordingly, a

Certificate of Marriage under Section 16 of Act XLIII of 1954 was issued by Gobinda Kumar Saha, Marriage Officer, Barasat Sub-Division, Dist – North 24 Parganas by certifying the Registration of Marriage.

It is well settled law that during existence of the 1st Marriage, 2nd Marriage is invalid.

20. Now again question comes, if so happened, where is Divorced Certificate? The documents referred above in para 15 (i) (ii), (iii) & (iv) are executed on 1977 that is much before the Marriage Under Act 1954.

21. In the entire proceedings of the instant application, nothing has been placed that there is a Divorced took place or marriage of the first wife annulled before the marriage on 23.01.1995 which was executed under Registration of Marriage Act, 1954 between Haralal Debnath and Manju Debnath alias Pushpa Rani Debnath of Chunaripara. If so, solemnization of 2nd marriage obviously be invalid.

22. From the Police Report as well as other documents and records, it is clear that Pushpa Rani Debnath of Gaighata, 24 Parganas is legally married first wife of Late Haralal Debnath and second wife Manju Debnath alias Pushpa Rani Debnath of

Chunaripara having no legs to stand as legally married wife of Late Haralal Debnath although tried to be established as legally married wife by virtue of Marriage Certificate dated 23.01.1995. As such, she is not entitled to get the family pension as per rule in force.

23. Accordingly, the O.A. stands dismissed. No order as to costs.

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(Manjula Das)
Member (J)

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