

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00317/17**

Reserved on : 23.08.2018
Pronounced on : 28.08.2018

C O R A M
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Lakshmi Devi, wife of Late Rajendra Prasad, resident of Mohalla-Kharkhura P.S. Delha, District- Gaya.

..... Applicant.

- By Advocate: - Mr. Arvind Kumar

-Versus-

1. The Union of India through the Chairman, Indian Railway Board, Govt. of India, New Delhi-110011.
2. The Zonal Manager, E.C. Railway, Hajipur.
3. The D.R.M., Mugalsarai, E.C. Railway, Mugalsarai.
4. The Divisional Personnel Officer, E.C. Railway, Mugalsarai.
5. The Assistant Personnel Officer, Divisional Rail, Mugalsarai, E.C. Railway, Mugalsarai.
6. The District Magistrate, Gaya.
7. The Superintendent of Police, Gaya.

..... Respondents.

- By Advocate: - Mr. Vinay Kumar

O R D E R

J.V. Bhairavia, J.M.:- This OA has been filed by the applicant for direction to the respondents to provide family pension along with arrears and interest on the ground that she is legally wedded wife and the widow of Late Rajendra Prasad Ex-Assistant Diesel Loco Pilot, SE(Loco)/EC Railway, Gaya.

2. The brief facts of the case is as follows:-

2.1 Late Rajendra Prasad, ex-Assistant Diesel Loco Pilot working under SE (Loco)/EC Railway, Gaya was compulsorily retired from service w.e.f. 22.03.2010 and all retiral dues were paid to him. The said Ex-Railway employee, i.e. Rajendra Prasad died on 20.11.2015.

2.2 After the death of Ex-Railway employee, the applicant , namely, Lakshmi Devi, claiming to be the wife of Late Rajendra Prasad had submitted an application before the respondents with a request to grant family pension to her (Annexure A/4 refers). The applicant had provided her residential address as C/o Ram Prasad, Moh, Kharkhare Baragi, Near Devi Asthan, P.S.- Dellha, District- Gaya. She also informed to the railway authorities that she is the only legally wedded wife of the Ex-employee and that the applicant had married with the ex-employee in the year 1973. She claims that there are five children born during the married life of the applicant and the late Ex-employee. To establish her case before the authorities she had submitted one affidavit sworn by Ex-employee dated 09.12.2010 having joint photograph of applicant and late ex-employee were pasted. In the said affidavit the late Rajendra Prasad had declared that his marriage was performed in the year 1973 with the applicant and thereafter both are having five children and that the name of the applicant and children were recorded in the service particulars of the ex-employee. It was also declared that the photograph of his wife is attached along with the affidavit and if any woman called him as her

husband is not acceptable to him. Along with the said affidavit the applicant had also submitted the copy of the declaration of the family members dated 25.05.1992 (Annexure A/3 series) along with copy of Railway Pass, Medical Card, Aadhar Card, Photo Identity Card etc. in support of her claim to receive family pension being widow of late ex-employee.

2.3 The applicant was served with impugned order dated 25.11.2016 issued by the office of Divisional Railway Manager, E.C Railway, Mugalsarai. The said letter was addressed to the applicant as well as one Smt. Lakshmi Devi, R/o Moh. Grewal Bigha, Munni Masjid (Beside Prayag Mandir) Ward No. 36, P.O.- Shamir Takya, P.S.- Civil Line, Distt.- Gaya whereby it was directed to submit necessary succession certificate in respect to claim of family pension of Late ex-employee Rajendra Prasad and only thereafter the name of the wife of the Late ex-employee will be recorded and further related procedure for grant of family pension will be undertaken (Annexure A/1). Aggrieved with the said communication dated 25.11.2016 the applicant has preferred this OA.

3. The learned counsel for the applicant has submitted that the applicant's name and the names of children was declared before the railway authorities long back and the same was recorded by the respondents. The respondents had issued Railway Pass and other benefits such as Medical Card etc. The copy of Aadhar Card, Ration Card, the affidavit sworn by the late Ex-employee dated 09.12.2010, photographs pasted on the said declaration are sufficient proof to

establish the fact that the applicant is the legally wedded first wife of the Late Ex-employee. Therefore, the claim of the applicant to receive family pension is ought to have accepted by the respondents. However, contrary to the service record of the late Ex-railway employee, i.e. husband of the applicant, the respondents had arbitrarily and illegally directed the applicant to submit succession certificate vide impugned order dated 25.11.2016. The said impugned order is bad in law and required to be set aside with a direction to the respondents to release the family pension in favour of the applicant.

4. In contra, the respondents have filed their written statement and denied the claim of the applicant. It is stated by the respondents that after the death of ex-railway employee, i.e. Rajendra Prasad the respondents have received the application/claim from the applicant for grant of family pension. In support of her claim, she had produced documents produced at Annexure A/3 series. They do not have any doubts with the said documents.

5. It is further contended by the respondents that on the other hand, the respondents have also received another application dated 25.01.2016 submitted by another lady with the same name, i.e. Lakshmi Devi R/o Moh. Grewal Bigha, Munni Masjid (Beside Prayag Mandir) Ward No. 36, P.O.- Shamir Takya, P.S.- Civil Line, Distt.- Gaya whereby she claimed that she is the only legally wedded wife of Late Rajendra Prasad. She was having one handicapped deaf and dumb born during the married life with her husband, i.e. late ex-

employee. According to her claim, after a long period of marriage her husband developed relation with one widow, namely, Shakuntala Devi @ Shanti Devi and now called as Lakshmi Devi. She started living with applicant's husband and disturbed the married life of the applicant. Therefore, due to physical and mental torture she left the house of her husband, i.e. Late Rajendra Prasad.

She had filed a maintenance suite no. 41/88/258/92 u/s 125 of Cr. P.C. in the court of Judicial 1st Class Magistrate at Gaya. Considering the fact that she is wife of said late Rajendra Prasad and the facts of the family dispute the said Court of Judicial 1st Class Magistrate, Gaya vide order dated 04.03.1992 had granted Rs. 200/- each of her son and herself total Rs. 400/- for maintenance. She had also submitted that her name was associated with her husband Late Rajendra Prasad in all Railway records as well as other relevant documents such as Railway pass, Voter ID etc. She also claimed that the said Shakuntala Devi in collusion with Late Rajendra Prasad got some documents forged in the name of Lakshmi Devi and Late Rajendra Prasad dishonestly and not only that photographs of Shakuntala Devi were got it pasted in settlement form in place of her and therefore she claimed that she is first legally wedded wife of Late Rajendra Prasad and entitled to receive family pension on the basis of documents produced and also in the light of order passed by Chief Judicial 1st Class Magistrate, Gaya.

The respondents had received the claim for grant of family pension from two different claimants. Therefore, they do not have

option left except to direct the claimants, i.e. applicant herein and another lady who has also claimed wife of ex-railway employee to submit succession certificate issued by the competent Civil Court for the purpose of grant of family pension.

5. Heard the learned counsel for the parties and perused the records.

6. It is noticed that on death of ex-railway employee two different women had claimed to be the wife of said late ex-employee. Under the circumstances, the respondents failed to decide as to who was the legally wedded first wife of the late Rajendra Prasad, Ex-railway employee for grant of family pension. Therefore, they have correctly directed the applicant and other woman who also claim to be the wife of late ex-railway employee to submit succession certificate for grant of family pension vide their letter/communication dated 25.11.2016 (Annexure A/1). The said decision of the respondents cannot be said to be erroneous or arbitrary.

7. Since it merges from the record that two different women claims to be the wife of late ex-employee and further claim for grant of family pension based on certain documents in their favour, the said dispute can only be settled by the concerned Civil Court and appropriate certificate, i.e. succession certificate. In absence of such succession certificate admittedly the respondents cannot determine who the lawful claimant is for grant of family

pension in the present case. Therefore, the impugned decision of the respondents dated 25.11.2016 cannot be faulted.

8. In view of factual matrix and observations as stated above, in my considered opinion the OA is devoid of merit. Accordingly, the OA is dismissed. No order as to costs.

[Jayesh V. Bhairavia]
Judicial Member

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