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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00160/2018

Wednesday, this the 20th day of February, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Remadevi P.,
Aged 63 years,
W/o Chandrasekharan Nair,
Kalappattil House,
Azad Road,
Irinjalakuda North,
Trissur District,
Kerala, Pin-680 125.

....Applicant

(By Advocate Mr.S.K.Balachandran)

V e r s u s

1. The Union of India,
Represented by the Secretary
Ministry of Finance,
Block No.12, CGO Complex,
Lodhi road, New Delhi – 110 003.

2. The Assistant Commissioner of Central Tax
& Central Excise; Thrissur Division,
Sakthan Thampuran Nagar,
Thrissur – 680 001.

3. The Commissioner of Central Excise,
Customs & Service Tax,
Central Revenue Building,
I.S.Press Road, Cochin-682 018.

4. The Commissioner of Central Excise,
Customs & Service Tax,
Mananchira, Kozhikode.

...Respondents

(By Mr.S.Sreenath, ACGSC for Respondents)

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This application having been heard on 6th February, 2019, the Tribunal on 20th February, 2019 delivered the following :

ORDER

OA No.160/2018 is filed by Smt.P.Remadevi, w/o late Shri Chandrasekharan Nair, who was employed as a Havildar in the Irinjalakuda Range under the respondents. She has filed the OA seeking the following reliefs:

- (i) To declare that the applicant is entitled to receive Family Pension from the respondents being the legally wedded wife of late Chandrasekharan who was an employee under the respondents.
- (ii) To declare that the applicant and her children are entitled to receive the GPF amount and DCRG amount due to the deceased Chandrasekharan,
- (iii) Direct the respondents to sanction the Family Pension to the applicant and give the GPF and DCRG amounts due to the deceased Chandrasekharan to the applicant and her children within a time frame as fixed by this Hon'ble Tribunal.
- (iv) Direct the respondents to release the Title document to the Applicant after adjusting any amount due under the HBA given to Chandrasekharan from the DCRG payable to him.
- (v) To issue such other orders or directions this Hon'ble Tribunal may deem just and proper in the circumstances of the case.

2. The facts of the case: Shri.Chandrasekharan had married the applicant on 15.05.1972 while he was working as Signelman in the Military. After retirement on 24.10.1973 Shri.Chandrasekharan got employment on 24.09.1974 in the Central Excise Department at Mancheri in Malappuram

District. The couple had two children born to them, Durgadevi on 02.05.1975 and Ramesh on 06.02.1977. The names of the applicant and the children were given as nominees of Shri.Chandrasekharan for receiving the service benefits. A copy of the nomination Form is produced at Annexure A1.

3. Shri Chandrasekharan died on 17.01.2001. Second Respondent issued a letter to the applicant directing her to submit her claim for Family Pension in Form No.14. Applicant submitted the same (Annexure A3). The applicant also submitted an application for grant of Death-cum-retirement gratuity in Form No.12 (Annexure A4). However, the request has not been granted by the respondents so far. It appears that another lady called Santha claimed that she was also legally married to Shri Chandrasekharan. She claimed that Shri Chandrasekharan had married her on 17.08.1972 and in the wedlock, a daughter named Sobhana had been born to them. It is seen endorsed in the records available in the Military that she is entitled to family pension. After the death of Chandrasekharan she filed a succession suit OP No.2/2002 before Sub Court, Irinjalakuda. Knowing this, the applicant filed a civil suit OS No.923/2006 before the Munsiff's Court, Irinjalakuda seeking a declaration that she is the legally wedded wife of Chandrasekharan and Sobhana is not the child of Chandrasekharan. The suit was decreed in favour of the applicant on 29.10.2008 but her prayer for declaring Sobhana is not the child of Chandrasekharan was declined. A copy of the said judgment is at Annexure A5. The applicant pursued this by filing A.S.No.40/2009 against the said

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judgement in so far as it was against her and Santha also filed A.S.No.29/2008 against the judgment. The Sub Court in Irinjalakuda dismissed the said appeals on 29.09.2012 (Annexure A6). Thus the present state is that Annexure A5 judgment is in force and respondents are bound by it.

4. A reply statement has been filed by the respondents in the case wherein the following facts have been submitted. From the Service Book of K.Chandrasekharan, his family consisted of his wife Smt.P.Remadevi, a daughter and a son. Upon the death of Shri Chandrasekharan, immediate relief of Rs.8000/-, leave salary of Rs.41,893/- and benefits under CGEGIS amounting to Rs.22,533/- were disbursed to the applicant. At this stage a letter was received from one Smt Santha claiming that she was the wife of the deceased employee and only she and her daughter Sobhana were eligible for all the retirement benefits.

5. The applicant had opted for civil family pension and had sent a request to issue a certificate regarding non payment of military family pension. However, on examination of the Signal Records, it was found that Smt.K.Santha was shown as the person to receive the military pension on the death of Shri Chandrasekharan and hence a certificate as sought for could not be issued to the applicant. Due to the dispute the amount of Rs.9509/- sanctioned and drawn towards GPF final payment was not paid and it was re-credited to the respective head of account.

6. As maintained in the OA, the succession suit filed before the Sub Court, Irinjalakuda and the appeal filed against the same have not resulted in any unequivocal decision in favour of either claimants. However, in the light of the disposal of the Miscellaneous Second Appeal by the Hon'ble High Court of Kerala in MSA 4/2005 against the judgment of Hon'ble District Court, notices were issued to both the parties to report before the Assistant Commissioner, Central Tax and Central Excise, Thrissur in order to accept the share amount of death benefits of the deceased. While Smt.Santha expressed her willingness to accept the share amount as earlier ordered by the Court, Smt.Remadevi as well as her children replied that they were awaiting the solution in the Wife Declaration Suit in OS No. 923/2006 filed before the Hon'ble Munsiff Court, Irinjalakkuda and no retirement benefits be granted to Santha as the Wife Declaration Suit was pending.

7. It is submitted that the respondent department decided to implement the judgment of the Hon'ble Additional Subordinate Judge, Irinjalakuda in OP No.2/2002 on the basis of the legal opinion obtained from the department counsel and Smt.Santha was requested to file an application. By a communication on 06.10.2008 the applicant in the OA again persisted on the same lines stating that no claim of Smt.Santha may be allowed. Ultimately, OS No.923/2006 concluded with the declaration that Smt.Remadevi is the legally wedded wife of Shri Chandrasekharan, but, not declaring that Smt.Sobhana

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born to Smt.Santha, was not the child of deceased Shri Chandrasekharan. The appeals against this decision were dismissed and the decision of OS No.923/2006 remains final. Smt Santha filed PIP 435/2015 before the Taluk legal Services Committee, Mukundapuram, which was disposed of on 09.10.2015 without any specific orders.

8. We have examined the case. It is entirely a civil dispute relating to two claimants, claiming benefits due as the terminal benefits of a deceased employee. It is submitted that arrears of family pension and fixed medical allowance for the period from 18.10.2001 to 30.06.2018 amounting to Rs.11,93,011/- was credited to the relevant account with State Bank of India and the PPO dated 02.08.2018 was issued for payment of family pension from 01.07.2018 onwards. These benefits are to be distributed among the wives and wards of the deceased employee. Now it is seen that only one of beneficiaries has come forward before this Tribunal praying for orders to claim all the retiral benefits of the deceased employee. This obviously would not be an agreeable solution for this Tribunal to adopt. As the benefits have more than one claimant, the deceased employee having bestowed his affections on two different women and in the process producing children from both, it is difficult for this Tribunal to adopt a view in favour of one, rejecting the claims of the other. The facts of the case have been appropriately described in the reply statement and this does not facilitate a decision in favour of the applicant exclusively. The suitable course of action would be for the respondent

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organisation to weigh the claims of either in relation to the judicial pronouncements which have been referred to and it would not be appropriate for the Tribunal to interfere either way. OA is accordingly dismissed.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00160/2018

1. **Annexure A1** – True copy of the nomination given in Form 1 prescribed under Central Civil Services [Pension] Rules, 1972.
 2. **Annexure A2** – True copy of the letter C.No.II/25/5/2001 Dated 29.10.2001.
 3. **Annexure A3** – True copy of the application for Family Pension, 1964 in Form No.14.
 4. **Annexure A4**– True copy of the application Form No.12.
 5. **Annexure A5** – True copy of the judgment dated 2/11/2008 in O.S.No.923/2006 on the file of Munsiff's Court, Irinjalakuda.
 6. **Annexure A6** – True copy of common judgment in A.S.No.29/2008 and A.S.No.40/2009 dated 29/09/2012.
 7. **Annexure A7**– True copy of the Letter C.No.11/25/08/2014/1268 dated 01/07/2015 along with covering letter dated 29/07/2015 containing the list of documents sent to the 2nd respondent.
 8. **Annexure A8** – True copy of the Letter No.C.No.IV/16/63/2017/2515 dated 23/10/2017.
 9. **Annexure A9** – True copy of the representation dated 12/12/2017.
 10. **Annexure R1** – PPO No.201-3082, 3083, 3084 dated 02.08.2018.
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