

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/40/2016

Reserved on: 18.12.2018

Order pronounced on: 21.12.2018

Between:

Jayanthi Venkata Durga Nagamani,
W/o. late Jayanthi Veerabhadram, aged about 42 years,
Occ: House wife, R/o. H. No. 11-5-110, Road No. 15,
Sri Venkateswara Colony, Saroornagar, R.R. District.

...Applicant

And

1. Union of India, Rep. by its Principal Secretary,
South Block, New Delhi.
2. Bharat Sanchar Nigam Limited
(a Government of India enterprise),
rep by its Chairman and Managing Director,
No. 20, Ashoka Road, New Delhi.
3. Bharat Sanchar Nigam Limited,
Rep. by the General Manager,
Telecom District, Visakhapatna, Andhra Pradesh.
4. Bharat Sanchar Nigam Limited,
Rep. by the Sub Divisional Engineer (HRD),
Telecom District, Visakhapatnam, Andhra Pradesh.

...Respondents

Counsel for the Applicant ... Mr. Adnan Mahmood

Counsel for the Respondents ... Mrs. K. Rajitha, Sr. CGSC
Mrs. P. Yasasvi, SC for BSNL

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for not releasing terminal benefits and not considering the applicant for compassionate appointment.

3. Brief facts of the case are that the deceased husband, Sri Jayanthi Veerabhadram of the applicant Smt J.V.D Nagamani, while serving the respondents organisation has passed away on 10.9.2012. The applicant was married to the deceased employee and evidence of the same in the form of wedding invitation card, wedding photos, Marriage certificate have been filed with the OA. Before marrying the deceased employee the applicant got married to Sri P. Sreenivas Murthy which was dissolved by way of decree of divorce on 1.9.2001 under O.P No. 99 of 1999. Applicant was blessed with a daughter due to a wedlock with Mr P.Sreenivas and the child was adopted by a proper adoption deed by the deceased employee. The family details were furnished by the deceased employee to the 3rd respondent vide annexure A-9 wherein the applicant was nominated as the sole legal heir. The deceased employee before marrying the applicant was married to one Smt. Jayanti Padmavathi which was dissolved vide decree dt 19.3.2009 of O.P. No.889 of 2008 filed as A-7. The applicant being nominee has represented to release the terminal benefits and provide compassionate appointment on 3.10.2012 followed by many such requests but of no avail. The respondents are insisting that applicant should produce succession certificate to release the terminal benefits despite the nomination, is her grievance and hence the OA.

4. The contentions of the applicant are that since she has been nominated by her deceased husband as per rule 53 of CCS (Pension) Rules 1972 she is

entitled for receiving the terminal benefits. The marriage of the deceased employee with Smt Jayanti Padmavathi, was annulled by the competent court. Therefore asking for succession certificate is beyond the competence of the respondents.

5. Respondents contend that the deceased employee has nominated Smt. J. Padmavathi along with other family members on 22.5.2007. Later he revised the nomination on 16.6.2008 in favour of his mother Smt. J. Kameswari. Again one more nomination in favour of the applicant on 10.11.2010 was made. Consequent to the death of the employee on 10.9.2012, both Smt. J.V.D Nagamani and Smt. J. Padmavathi claimed the retirement benefits and hence they were asked to produce succession certificate. Smt. J.Padmavati has filed a case in FCOP No. 924/2014 Honourable Family judge court in Vizag in June 2014 claiming that her divorce purported to be issued in 2009 was stage managed by the court staff. The applicant has also filed a WP No.16756/2013 in the Honourable High Court in regard to the issue and the same is pending. The Honourable Court of I Addl. Senior Civil Judge, Visakhapatnam in E.P No. 115/2015 in OS No. 1280/2013 has restrained the respondents from releasing the death benefits of the deceased employee to the tune of Rs.5,67,194/- by issuing a garnishee order dated 17.08.2015 as per the reply statements filed by the respondents.

6. Heard the ld. counsel and went through the documents submitted. The ld. counsel forcefully argued that when there is a nomination in favour of the applicant the respondents cannot deny release of pensionary benefits to the applicant. The ld. counsel for the respondents has submitted that since there

are counter claims and court cases are pending the applicant was asked to obtain a succession certificate.

7(A) As per the records on file the deceased employee was initially married to Smt. Jayanthi Veerabhadram which was dissolved on 19.3.2009 by OP No. 889/2008 by the competent Family Court. The applicant was married to the deceased employee on 4.9.2010 which was certified by the Registrar of Marriages vide certificate dt. 6.9.2010. The family members shown in the j form forwarded by the Sub Divisional officer , M.V.P External Maintenance, Vizag vide letter dt 10.11.2010, to the SDE,% GMTD Vizag contains the names of the applicant, her daughter and the deceased employee's mother along with that of the deceased employee. The name of the applicant has been shown as nominee in CGEIS,DCRG forms dt. 30.9.2010. Thus there is a valid nomination which is the latest. The deceased has nominated the applicant as the nominee under Rule 53 of CCS (Pension) Rules 1972 which entitles the applicant to claim death benefits. The first wife was divorced on 19.3.2009 by OP no 889/2008. The respondents admit this fact in their reply statement. Hence the first wife will not have any claim as on date unless the concerned family court upsets the divorce decree given to the first wife earlier. Rule 53 (5) of CCS (Pension) rules, provides for cancellation of nomination and which the deceased employee exercised by giving a fresh nomination in favour of the applicant vide lr. dt. 10.11.2010 of the SDO cited supra. The submission of the respondents that the applicant has been frequently changing the nomination does not hold ground as the employee has the discretion to nominate, cancel and change the nomination as per relevant provisions of the CCS (Pension) rules. The writ petition 16756 of 2013 referred to by the

respondents has been dismissed as withdrawn on 20.10.2016. Further, the Honourable Supreme Court judgment in AIR 1984 SC, quoted by the respondents, in fact favours the applicant, as it states that the legal heir is entitled to receive the insured amount under the law of succession. The applicant is the legal heir and is nominated as per CCS (Pension) rules 1972 for receiving the terminal benefits. The first wife might have filed a case in the family court about her earlier divorce but till the verdict is out the applicant will remain the legally wedded wife. Therefore, in view of the fact that the applicant has been nominated to receive terminal benefits and being the legal heir, the balance of convenience is in favour of the applicant. However, in regard to the amount of Rs5,67,194/- ordered to be withheld by the Honourable Court of the I Addl. Senior Civil Judge, Visakhapatnam in EP No. 115/2015 in OS No 1280/2013, it shall hold good till the case is decided. It is open to the applicant to contest the case by impleading herself in the said case, as her interests are at stake. Therefore, based on aforesaid facts the OA is allowed.

(B) The respondents are therefore directed to consider as under:

- i) To release the terminal benefits in favour of the applicant as she is the legal heir and has the nomination in her favour as per CCS (Pension) Rules 1972.
- ii) A sum of Rs.5,67,194/- ordered to be withheld by the Honourable Court of I Addl. Senior Civil Judge, Visakhapatnam vide order dated 17.08.2015 in EP No. 115/2015 in OS No 1280/2013 be complied with by the respondents till the case is decided, by withholding the said amount from the terminal benefits.

- iii) Consider the case of the applicant for compassionate appointment as per the policy and rules & regulations of the respondents organisation.
- iv) Time allowed to implement the order is 3 months from the date of receipt of this order.
- v) No order to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 21st day of December, 2018

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