

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

**Original Application No. 21/689/2018**

**Date of Order: 08.01.2019**

Between:

1. Smt. K. Bharathi, Aged 48 yrs, (1<sup>st</sup> Wife)  
W/o. late K. Yadaiah @ Yadagiri Gr. C  
Ex.-TM, O/o. SSE/P.Way/Med.,  
S.C. Railway, R/o. H. No. 3-20/1, Mirzapalli,  
Mandal Shankarampet (R) Medak District,  
Telangana – 502248.
2. Shri K. Devender, Aged 22 yrs,  
Occ: Unemployed, S/o. late K. Yadaiah @ Yadagiri Gr. C  
Ex.-TM, O/o. SSE/P.Way/Med.,  
S.C. Railway, R/o. H. No. 3-20/1, Mirzapalli,  
Mandal Shankarampet (R) Medak District,  
Telangana – 502248.
3. K. Divya, Aged 19 yrs,  
Occ: Unemployed, S/o. late K. Yadaiah @ Yadagiri Gr. C  
Ex.-TM, O/o. SSE/P.Way/Med.,  
S.C. Railway, R/o. H. No. 3-20/1, Mirzapalli,  
Mandal Shankarampet (R) Medak District,  
Telangana – 502248.
4. Smt. K. Yadamma, Aged 48 yrs, (2<sup>nd</sup> Wife)  
W/o. late K. Yadaiah @ Yadagiri Gr. C  
Ex.-TM, O/o. SSE/P.Way/Med.,  
S.C. Railway, R/o. H. No. 3-20/1, Mirzapalli,  
Mandal Shankarampet (R) Medak District,  
Telangana – 502248.
5. Shri K. Sai Baba, Aged 30 yrs,  
Occ: Unemployed, S/o. late K. Yadaiah @ Yadagiri Gr. C  
Ex.-TM, O/o. SSE/P.Way/Med.,  
S.C. Railway, R/o. H. No. 3-20/1, Mirzapalli,  
Mandal Shankarampet (R) Medak District,  
Telangana – 502248.
6. Shri K. Raju, Aged 27 yrs,  
Occ: Unemployed, S/o. late K. Yadaiah @ Yadagiri Gr. C  
Ex.-TM, O/o. SSE/P.Way/Med.,  
S.C. Railway, R/o. H. No. 3-20/1, Mirzapalli,  
Mandal Shankarampet (R) Medak District,  
Telangana – 502248.

... Applicants

And

UOI, Rep. by its,

1. The General Manager,  
South Central Railway, Secunderabad.
2. The Chief Personnel Officer,  
S.C. Railway, 4<sup>th</sup> Floor, Rail Nilayam,  
Secunderabad.
3. The Divisional Railway Manager,  
Hyderabad Bhavan, Hyderabad Division,  
S.C. Railway, Hyderabad.
4. The Sr. Divisional Personnel Officer,  
Hyderabad Bhavan, Hyderabad Division,  
S.C. Railway, Hyderabad.

... Respondents

Counsel for the Applicants ... Mr. G. Pavan Murthy, advocate for  
Mr. G.S. Rao

Counsel for the Respondents ... Mrs. Vijaya Sagi, SC for Rlys.

**CORAM:**

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

**ORAL ORDER**

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

2. The applicants in the OA are challenging the orders of the respondents issued vide letter dated 11.01.2018 directing them to produce a Declaratory Decree from the competent court of law for seeking terminal benefits.

3. Brief facts of the case are that the 1<sup>st</sup> applicant is the wife of the deceased employee Sri Yadaiah @ Yadagiri. She has been blessed with two wards through the said marriage with the deceased employee. The 4<sup>th</sup> applicant is the second wife of the deceased employee and she has been blessed with two wards through the marriage with the deceased employee. All the applicants referred to are party to the OA. The deceased employee while working in the respondent

organization as Gangman died in harness on 19.10.2016. Due to domestic disharmony, the deceased employee started living separately from the 1<sup>st</sup> applicant. Thereafter, the deceased employee married the 4<sup>th</sup> applicant in 1985 and was blessed with two male children through the 4<sup>th</sup> applicant. Having come to know that the deceased employee has married the 4<sup>th</sup> applicant, the 1<sup>st</sup> applicant filed a private complaint against her husband before the competent court at Medak vide CC No. 22/1990. After getting notice from the competent court, the applicants at No.1 & No. 4 came to an understanding and the case was closed. After the death of their husband, the applicants, by their joint representations dated 04.11.2017, 24.11.2017 and 14.12.2017, requested the respondents for release and distribution of terminal benefits amongst them on 50:50 basis. They have also submitted a compromise deed to this effect to the respondents. Despite the said representations, the respondents directed the applicants to produce declaratory decree from the competent civil court. Aggrieved over the same, the present OA has been filed.

4. The contentions of the applicants are that the deceased employee has declared all the four children as his wards. Both the wives lived with the deceased employee. They have executed a compromise deed and submitted the same to the respondents. Rule 75 of Railway Pension Rules provides for family pension to be distributed among the widows, if there is more than one widow, in equal shares.

5. The respondents state that on expiry of the deceased employee on 19.10.2016, when they were processing the release of terminal benefits, Smt. K. Bharati, who is the 1<sup>st</sup> applicant has made a representation to include her name

and that of her children's names, besides deleting the name of the 4<sup>th</sup> applicant Smt. K. Yadamma. The matter was investigated and the Investigating officer did point out that the deceased employee has applied for retirement under LARGESS Scheme in order to seek employment for the son of the 4<sup>th</sup> applicant. The deceased employee married the 1<sup>st</sup> applicant in 1980 and the 4<sup>th</sup> applicant in 1985. As there being disputes among themselves, they were directed to submit a declaratory decree from the competent court of law for releasing the terminal benefits.

6. Heard learned counsel for both sides and perused the documents on record.

7A. It is a fact that the 1<sup>st</sup> applicant did complain to the respondents about inclusion of her wards. However, later, they reconciled and came to an understanding which is evident from the compromise deed dated 27.11.2017. Further, it is also clear that as per Rule 75 of the Railway Pension Rules, family pension has to be distributed among the widows if there is more than one in equal shares. The rule position being clear, there should not be any doubt entertained by the respondents in releasing the same equally to both widows. More so, in the context of a compromise deed submitted by the 1<sup>st</sup> and 4<sup>th</sup> applicants. If there were to be competing claims, then the respondents directing the applicants to submit declaratory decree would be in order.

B. Learned counsel for the applicant has also submitted a case pertaining to Smt. A. Surya Kala wherein the respondents have distributed the pension between two widows vide PPO No. A/PN/2/2/1056, dt. 22.01.2010. The

respondents themselves have distributed the pension, when there is more than one widow, as per the Railway Pension Rules cited.

C. Having resolved such claims based on the Railway Pension Rules quoted, it is not known as to why the respondents have ordered the applicants to produce the declaratory decree. Further, Hon'ble Calcutta Bench of this Tribunal in OA 1164/1997 relying upon judgment of the Hon'ble Apex court in *State of Himachal Pradesh Vs. Kedarnath Sur reported in 1998 SCC (L&S) 556* held as under:

*“13. Recently the Hon'ble Apex Court in a judgment reported in 1998 SCC (L&S) 556 (State of Himachal Pradesh Vs. Kedarnath Sur) has settled the controversy regarding claim of the widow mother and father of the deceased Govt. servant by interpreting the provisions of Rule 54(14)(5)(i) of CCS (Pension) Rules, 1972, where the definition of the 'family' has been mentioned. In the said judgment, the Hon'ble Apex Court has held that parents of the deceased Govt. servant are not members of the family to get pension under the definition of Family Pension Scheme, 1964.*

*14. So in view of the aforesaid circumstances, it can be safely said that the applicant Gopa Majumdar, being a widow and having no issue till the death of the deceased employee, Ashoke Kumar Majumdar, is entitled to get family pension without obtaining and producing any succession certificate, asked for notwithstanding the fact that the mother of the deceased has raised a claim for payment of family pension to her. Family pension is not an inheritance and the estate of the deceased. It is a statutory benefit which is to be given to the widow and the children in case of death of an employee by way of compensation. Hence, entitlement of family pension under the scheme is not covered by the Hindu Succession Act.”*

The above observations of the Hon'ble Calcutta Bench of this Tribunal that there is no need to produce a succession certificate squarely applies to the present case. Even this Tribunal in OA No. 1330/2012 has disposed of a similar case. Thus, directing the applicants to produce the declaratory decree is against the legal principle set by the Hon'ble Supreme Court.

D. It is not out of place to state that during the arguments, learned counsel for the respondents expressed apprehension that since the deceased employee wanted the son of his second wife to be given appointment under LARGESS, would it be fair to consider the ward of the 1<sup>st</sup> applicant for compassionate appointment as per the compromise deed submitted by them. This Tribunal appreciates the concern expressed by the learned counsel for the respondents. However, as per the Railway Board order No. 1/1992 circulated vide SC No. 592, dt.1.7.1992, it is clarified that the wards of the second wife could not be considered for compassionate appointment unless administration has permitted the second marriage, in special circumstances, taking into account the personal law, etc. In the present case, compromise deed only mentioned about the compassionate recruitment to the wards of the first wife who is the first applicant in the present OA. Thus, the request of the applicants is as per the Railway Board circular quoted. Though the learned counsel for the applicants raised this aspect, there is no such relief sought in the present OA. Hence, the averments made by the learned counsel for the respondents is not relevant.

E. As things stand today, the respondents need to follow their own rules for distributing terminal benefits amongst both the widows. The details discussed above make it explicit that the applicants have made out a case which succeeds. The impugned order of the respondent No. SCR/P-HYV/691/Sett./YN/2018 dated 11.01.2018 is quashed. Having done so, the respondents are directed to consider as under:

- i) To sanction family pension to Smt. K. Bharati and Smt. K. Yadamma, the applicant Nos. 1 & 4 respectively, the wives of the deceased

employee of late Sri Yadaiah as per the Rule 75 of the Railway Pension Rules along with consequential death benefits thereof.

- ii) Time allowed for implementation of this order is three months from the date of receipt of this order.
- iii) OA is allowed with the above directions.
- iv) There shall be no order as to costs.

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

Dated, the 9<sup>th</sup> day of January, 2019

evr