

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

Original Application No. 20/1232/2016

Date of CAV: 02.01.2019

Date of Pronouncement: 04.01.2019

Between:

Smt. Pagadala Siva Kumari, W/o. late Pagadala Radha Krishna
(Ex.TM, Mandapadu), D. No. 7-20-1166, 30th Lane,
Sarada Colony, Guntur.

... Applicant

And

1. The Assistant General Manager (A & IT),
O/o. The General Manager, Telecom Division, Guntur.
2. The General Manager, Telecom, Bharat Sanchar Nigam Limited,
1st Lane, Chandramoulinagar, Guntur – 522 007.
3. The Chief General Manager, Telecom, BSNL Bhavan,
Chettugunta, Vijayawada.
4. Smt. P. Naga Kumari, R/o. D. No. 2-3-38/37, Talal Bazar,
Narasaraopet, Guntur District.

... Respondents

Counsel for the Applicant ... Mr.M. Kesava Rao

Counsel for the Respondents ... Mrs. P. Yasasvi, SC for BSNL
Mr. G. Jaya Prakash Babu for R-4

CORAM:

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

ORDER

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

The issue that arose in this OA is in regard to the directive of the respondents to the applicant for producing legal heir certificate in order to be eligible to receive family pension and other benefits.

2. Brief facts of the case are that the applicant's husband P. Radhakrishna, while working as Telephone Mechanic in the respondent organization died on 30.06.2016. He was married to the applicant on 15.03.1990. However, the applicant's husband used to live with the 4th respondent i.e. private respondent and that her late husband used to harass her mentally and physically. Consequently, the applicant had to live separately with her old mother as she was not able to mend behaviour of her late husband despite best of efforts. The applicant's husband filed OP No. 50/1998 in the court of Subordinate Judge, Guntur for dissolution of marriage, but the same was dismissed on 19.01.2005. The applicant's husband thereafter preferred a Civil Miscellaneous Appeal No.442/2008 before the Hon'ble High Court. Before the Hon'ble High Court could decide the matter, the applicant's husband passed away. Therefore, the CMA got abated. The applicant on her behalf filed OS No. 645/2008 in DMC, Guntur claiming maintenance from her late husband. The applicant has also filed EP No. 108/2005 for realization of arrears of maintenance and the same is pending. After the death of her husband, the applicant represented to the respondents on 30.08.2016 and 16.09.2016 to release the terminal benefits and also consider her case for compassionate appointment claiming that she is the legally wedded wife by enclosing documents like wedding card, judgment in OP No. 50/1998, family member certificate issued by the Tahsildar, medical identity card, Aadhaar card, etc. The 4th respondent made a counter claim for the terminal benefits on the ground that she is the legally wedded wife as a registered Will has been executed in her favour by the deceased employee. There being a dispute in regard to the claim, the respondents directed the applicant to produce succession certificate vide letter dated 25.10.2016. Aggrieved over the same, the present OA has been filed.

3. The contentions of the applicant are that the stand of the respondent authorities is against the observations of the Hon'ble Supreme Court in Smt. Violet Issa & Others Vs. Union of India & Others, 1991 (1) SCC 725. The applicant claims that if there is any Will in respect of the death benefits favouring the 4th respondent, the 1st respondent cannot act on that. Therefore, the action of the respondents is illegal.

The 4th respondent has challenged the contention of the applicant by stating that she has got married to the deceased employee on 13.05.2001 and she has been blessed with three daughters due to the said marriage. The 4th respondent claims that she has lived with the deceased employee from the date of marriage till the demise of the deceased employee on 30.06.2016. Further, a registered Will deed vide document No. 178/2013 dt. 24.12.2013 was executed by the deceased employee favouring her. The action of the respondent authorities in asking the applicant to produce succession certificate is as per law and that before the competent court she would have an opportunity to establish her legal right by contesting the same.

4. The respondents 1 to 3 have contended that in view of the dispute that arose between the applicant and the 4th respondent, they have taken a legal advice. As per the legal advice, the applicant was directed to produce a succession certificate. Once the certificate is produced, the concerned party would be granted the terminal benefits.

5. Heard learned counsel and perused the documents plus the pleadings on record.

6. Learned counsel for the applicant has claimed that since the applicant has produced the documents there is no iota of doubt about the applicant being legally wedded wife of the deceased employee. Learned counsel for the 4th respondent has urged that since there is a Will deed in favour of the 4th respondent, the 4th respondent is entitled to receive terminal benefits. Learned counsel for the respondents has stated that a succession certificate is required to resolve the dispute.

7. The applicant claims that she is the legally wedded wife by enclosing documents like wedding card, judgment in OP No. 50/1998, family member certificate issued by the Tahsildar, medical identity card, Aadhaar card, etc. The applicant has also enclosed the judgment of the Hon'ble Supreme Court in Violet Isaac & Others Vs. Union of India & Others, 1991 (1) SCC 725 claiming that family pension has to be paid only to the widow of the deceased employee. We have gone through the observations of the Hon'ble Supreme Court supra. The judgment of the Hon'ble Supreme supra cited by the applicant is about a dispute in granting family pension to the wife and children of the deceased employee and the brother of the deceased employee. The dispute was resolved by the Hon'ble Apex Court by stating that the family pension has to be granted to the widow of the deceased employee. However, in the present case the dispute is about the family pension and other terminal benefits being claimed by two claimants viz., the applicant and the 4th respondent. Both of them claim to be the wives of the deceased employee. It has to be decided as to which wife among the two has to be granted family pension. The issue thus is about a dispute related to rival claims arising from relationship in one case and from a Will Deed in the other. This Tribunal does not have jurisdiction to deal with such an issue. Hence the appropriate forum would be competent civil court where the issue can be

appropriately adjudicated. Therefore, the stand of the respondents directing the applicant to produce succession certificate is as per law. It is also seen that there is no nomination either in favour of the applicant or the 4th respondent. However, the deceased employee had nominated his mother to receive 100% of the terminal benefits. Unfortunately, the mother of the deceased employee has also passed away and consequently, now the terminal benefits are to be granted to one of the rival claimants. Counsel for the 4th respondent has also submitted that as there is a counter claim, it would be appropriate to obtain a succession certificate from the competent court. We find merit in the said submission for the reasons stated above. Therefore, we do not find any ground to intervene on behalf of the applicant and hence, the OA is dismissed. There shall be no order as to costs.

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

Dated, the 4th day of January, 2019

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