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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CALCUTTA BENCH

ORIGINAL APPLICATION NO. 350/1537 OF 2018 :

In the matter of :

An application Under Section 19 of the
Central Tribunal Administrative Act, 1985;

And

In the matter of :

SMT. PAPIYA MUKHERJEE (SARKAR),

Aged about 31 years, Wife of Shri Sumit
Sarkar and also daughter of Late Dilip
Kumar Mukherjee (since deceased),
residing at 68/2 & 68/3, R.B.C.Road.
P.O.Naihati, District North 24-Parganas,
Pin-743165.

.....Applicant

-Versus-



1. UNION OF INDIA, service through the General Manager, Eastern Railway, having its office at 17, N.S.Road, Calcutta-700 001.
2. The Chief Personnel Officer, Eastern Railway, having its office at 17, N.S.Road, Calcutta-700 001.
3. The Vigilance Officer (A) Vigilance Department, Eastern Railway, having its office at 17, N.S.Road, Kolkata-700 001.
4. The Chief Works Manager, Kanchrapara Workshop, Eastern Railway at Kanchrapara, North 24-Parganas, Pin-743145.
5. The Workshop Personnel Officer/ E.Rly. Kanchrapara Rly. Workshop, at Post Office Kanchrapara, North 24-Parganas -743145.

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6. The Assistant Personnel Officer
(Works), Kanchrapara Rly. Workshop, at
Post Office Kanchrapara, North 24-
Parganas -743145.

7. The Welfare Inspector to personnel
Department, Kanchrapara Rly.
Workshop, at Post ^{Kanchrapara} ~~Office~~ ^{Office} ~~Office~~,
~~North 24-Parganas~~, North 24-Parganas -743145.

8. smt. Arati Mukherjee, wife of Late Dilip
Kumar Mukherjee (since deceased),
residing at 68/2, R.B.C. Road, P.O. &
P.S. Naihati, North 24-Parganas-743165.

9. Shri Sumanta Mukherjee, son of Late
Dilip Kumar Mukherjee (since deceased),
residing at 68/2, R.B.C.Road, P.O. &
P.S. Naihati, North 24-Parganas-743165.

10. Shri Sudipta Mukherjee, son of Late
Dilip Kumar Mukherjee (since deceased),

WQ

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residing at 68/2/2, R.B.C

P.S. Naihati, North 24-Parganas

11. Smt. Sonali Mukherjee (Pal), wife of
Shri Biswajit Pal, of 7/D, Bijaynagar, P.O.

& P.S. Naihati, District North 24-

Parganas-743165.

12. Divisional Railway Manager, E. Rly.
Sealdah Division, DRM Building
Sealdah, Kolkata - 700014.
... Respondents

AD

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/1537/2018

Date of Order: 19.12.2018

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

Papiya Mukherjee (Sarkar) -vs- UOI & Ors.

For the Applicant(s): Mr. A.K.Gayen, Counsel

For the Respondent(s): Mr. M.K.Bandyopadhyay, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Ld. Counsel for both the parties, in extenso.

2. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

"8.(a) Issue direction upon the respondents more particularly the respondent nos.4 and 5 their agents, sub-ordinates, servants associates to disburse the proper share of DCRG amount and family pension in favour of the applicant being the unmarried minor daughter of the deceased father Late Dilip Kumar Mukherjee by quashing and/or setting aside the decision dated 30.05.2018 (Annexure 'A-11') forthwith without any further delay;

(b) Issue direction upon the concerned respondents/ Railway authorities their agents, servants, sub-ordinates to make a proper enquiry about the genuineness of legal heirship of the applicant and/or proper scrutiny of documents duly submitted by the applicant about her legal heirship and grant share of family pension and DCRG amount by quashing and/or setting aside the report of the respondent no.7, the Welfare Inspector to the personnel department submitted on 25.06.2002 as appeared on the letter dated 30.05.2018 (Annexure A-11);

(c) Such further order or orders, direction or directions be given as to Your Lordships may deem fit and proper;"

3. The case of the applicant in nutshell as enumerated by Ld. Counsel for the applicant is that she is the daughter of Dilip Kumar Mukherjee (who was working

AO

as Sk.Carpenter Gr-II, and died on 15.01.2002) and Smt. Sujata Mukherjee (non-traceable). The grievance of the applicant is that after the death of her father, she is entitled for the pensionary benefits and other dues, which has not been paid to her.

4. Mr. A.K.Gayen, Ld. Counsel for the applicant, submitted that at the time of making representation, i.e. on 13.09.2017, the applicant was unmarried and she has a right for consideration which has been completely ignored for which she made a representation to Respondent Nos. 2, 3, 4 and 5, but on behalf of Respondent No.4, Workshop Personnel Officer by a communication dated 30.05.2018 (Annexure-A/11) has already informed certain facts to the applicant.

5. With the aid and assistance of Mr. Gayen, I went through the said communication under Annexure-A/11 and found that the states as under:

“Reference above, it is informed that Dilip Kumar Mukherjee, Ex. Sk.Carpenter Gr-II, T.No. 18516, died on 15.01.2002 left behind the following legal heirs as per GP-47 collected from the legal heirs & submitted by the Welfare Inspector of Personnel Deptt., which have been signed by Sr. Section Engineer of Shop No. 18/KPA & Works Manager (C)/KPA on 25.06.2002.

- i) Smt. Arati Mukherjee, Wife
- ii) Sri Sumanto Mukherjee, Son
- iii) Sudipta Mukherjee, Son
- iv) Sonali Mukherjee, U/M Daughter

Accordingly, all settlement dues including DCRG had been disbursed amongst the aforesaid legal heirs of Late Dilip Kumar Mukherjee as per Railway extant rules on the strength of GP-47 at that material time.

Hence, Your letter no., nil, dated 13.09.2017 under reference is not considered by the Railway Administration.”

6. Mr. Gayen submitted that when an unmarried daughter is very much coming under the first class legal heir under Rule 75(6)(3), non-consideration of her case at the relevant time is nothing but injustice meted out to the applicant.

7. On the other hand, Mr. M.K.Bandyopadhyay, Ld. Counsel for the Official Respondents, vehemently opposed such a submission made by Mr. Gayen. By drawing my attention to the same Annexure-A/11, he submitted that as per the



records, details of the legal heirs were collected as per GP 47 and the same were submitted to the Welfare Inspector, Personnel Department and, after verification, four persons have already been granted with the benefits, including DCRG, as per extant rules and GP 47 and, therefore, the applicant is not entitled to get the benefits claimed by her. However, Mr. Gayen submitted that the Chief Personnel Officer, i.e. Respondent No.2, is competent enough to rectify if any mistake has crept in by Respondent No.4 and, therefore, prayed that a direction may be issued to Respondent No.2 to consider the said representation under Annexure-A/6 pending before him as per rules and regulations in force, particularly keeping in mind the status of the applicant at that relevant point of time, within a specific time frame. Having heard Ld. Counsel for both the sides, I do not think that it will be prejudicial to either of the sides if such a direction is issued.

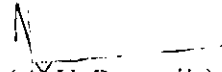
8. Accordingly, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No.2 to consider the representation of the applicant dt. 13.09.2017 under Annexure A/6, if the same has been filed and is pending for consideration, and pass a reasoned and speaking order as per rules and regulations in force, particularly keeping in mind the age and status of the applicant at that relevant point of time, and communicate the result in a reasoned and speaking order within a period of six weeks from the date of receipt of copy of this order. Although, I have not expressed any opinion on the merit of the matter still then I hope and trust that if after such consideration the applicant's grievance is found to be genuine and she is coming under the list of beneficiaries then necessary steps be taken to correct the order dated 30.05.2018 (Annexure-A/11) and benefit as admissible under law be disbursed to the applicant within a further period of six weeks.



9. With the aforesaid observation and direction, this O.A. stands disposed of at the admission stage. No costs.

10. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent No. 2 by Speed Post, for which, he undertakes to deposit the cost with the Registry within a week.

11. Copies of this order be handed over to the Ld. Counsel for the parties.


(A.K Patnaik)
Member (J)

RK/PS

