

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. CPC. 350/00007/2014
(O.A. 350/01357/2010)

Date of order: 11-03-2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Smt. Hasna Banu,
Wife of Md. Jamaluddin,
C/o. Md. Jargis Mondal,
Village & Post Office – Joykrishnapur,
Police Station – Rampurhat,
District – Birbhum,
Pin – 731224.

.. Applicant

VERSUS

1. Union of India,
Service through the General Manager,
Eastern Railway,
Fairlie Place,
Kolkata – 700 001.
2. The Senior Divisional Personnel Officer,
Eastern Railway,
Sealdah Division
Sealdah.
3. The Divisional Railway Manager,
Eastern Railway,
Sealdah Division, Sealdah,
Calcutta – 700 027.

.. Respondents

And

In the matter of:-

Smt. Hasna Banu,
Wife of Md. Jamaluddin,
C/o. Md. Jargis Mondal,
Village & Post Office – Joykrishnapur,
Police Station – Rampurhat,
District – Birbhum,
Pin – 731224.

.. Applicant

Hasna

- V E R S U S -

**Mr. Ravi Kumar,
Senior Divisional Personnel Officer,
Eastern Railway,
Sealdah Division,
Sealdah.**

Contemnor/Respondent No. 2

**For the Petitioner : Mr. U.K. De, Counsel
Mr. P.C. Das, Counsel**

For the Respondents : Mr. P.B. Mukherjee, Counsel

ORDER

Per Dr. Nandita Chatterjee, Administrative Member:

This CPC arises out of alleged violation of the orders of this Tribunal dated 15.10.2012 in O.A. No. 350/01357/2010. The operative portion of the said orders of the Tribunal dated 15.10.2012 in O.A. No. 350/01347/2010 reads as follows:-

"6. The applicant is at liberty to give a detail representation to the authorities considering his case for release of settlement dues and also indicate about status of the review petition along with copy of the decision rendered by Hon'ble High Court in review petition. The respondents are thus directed to take appropriate action on the applicants representation, if any, which can be submitted within a period of 15 days and take a decision as per rules within a period of 3 months from the date of such representation and communicate the decision so taken to the applicant."

2. The factual background of the Original Application is that the applicant/petitioner, claiming to be the widow of an ex-employee of the respondent authorities had approached the respondents in January, 1989 for settlement of her dues along with the death certificate as well as the kabulnama (as proof of her marriage with the deceased employee). As the authorities failed to respond, the applicant/petitioner approached the Hon'ble High Court in a Writ Petition being C.O. No. 10975(W) of 1992 which was disposed of on 6.7.92 with the following directions:-

"Considering all the aspects, this writ petition is disposed of by commanding the respondents to settle the dues and release the same as admissible within a period of 2 months from the date of communication of this order."

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That, although an application for modification of the said order dated 6.7.92 was made before the Hon'ble High Court, no decision was received on the same and, in the meanwhile, the Central Administrative Tribunal assumed jurisdiction in matters relating to the respondent authorities. The said modification application, having become otiose, was no longer pursued, and the applicant/petitioner preferred an O.A. No. 350/01375/2010 before the Tribunal which was disposed of by the above mentioned orders dated 15.10.2012.

3. The alleged contemnors, per contra, would furnish a speaking order issued on 30.10.2014 in compliance to the orders of the Tribunal dated 15.10.2012 in the above mentioned O.A. which is reproduced below in verbatim:-

EASTERN RAILWAY

No. E-18(TR)/Court Case/1357/2010

Sealdah, Dated: 30.10.2014

Smt. Hasnabu
Vill. & P.O. – Jaykrishnapur
P.S. – Rampurhat; District – Birbhum,
Pin – 731224.

SPEAKING ORDER

Sub: O.A. No: 1357 of 2010, Smt: Hasnabu v. UOI & ors.

Ref: Certified copy of order of O.A. No. 1357 of 2010 dt.
15.10.2012.

Hon'ble Central Administrative Tribunal, Calcutta Bench, in its order dt. 15.10.2012 in O.A. No: 1357 of 2010 was pleased to direct the respondents to take appropriate action on the applicant's representation if any, which can be submitted within a period of 15 days and take a decision as per rules within a period of 3 months from the date of such representation and communicate the decision so taken to the applicant.

In compliance, the applicant preferred representation dated 4.12.20102 which was received by this office on 10.12.2012.

In terms of the order, the respondent shall have to dispose the representation. Accordingly I being respondent No. 2 have examined the content of the representation as well as consulted relevant departmental file of papers.

It is the case of the applicant that she was not paid the settlement dues and pensionary benefits on the demise of Md. Jamaluddin on 10.11.1988 who was an employee working as Electrical Fitter at Sonarpur EMU Car Shed under Sr. Divisional Electrical Engineer (TRS), Sealdah.

Record reveals that claim of Smt. Hasnabu could not be settled due to non-recognition of her heirship on the ground of divorce with the employee (subsequently deceased).

The applicant was requested to attend his office for appearing in personal hearing scheduled on 15.3.2013 along with necessary relied upon documents in her support as legal heir of the deceased employee but the applicant did not attend this office on that date. Subsequently, the applicant appeared in the personal hearing on 18.6.2013 held in this office.

The applicant though stated in the subject O.A. as well as in the aforesaid representation that Smt. Fazlima Khatun expired in the year 1999 but she produced Photostat copy of the death certificate of Smt. Fazlima Khatun certifying date of death on 22.4.2000 at the time of personal hearing in this office on 18.6.2013.

On scrutiny of the records available in this office it reveals that Smt. Hasnabanu was divorced on 28.12.1987 by her husband by oral Talak followed by affirmation through affidavit on 4.1.1988 before Hon'ble Judicial Magistrate, 1st Class, Rampurhat, Birbhum.

The applicant suppressed this fact of divorce in the subject O.A. She also suppressed this fact in her representation dated 4.12.2012 as well as during personal hearing held in this office on 18.6.2013.

In view of the overall consideration, it reveals that the applicant is not legal heir of the said deceased employee. As such, the applicant is not eligible to get the settlement dues and pensionary benefits on demise of Md. Jamaluddin, the concerned employee.

Hence, I have no option but to reject the claim of the applicant.

(U. Lahiri)
Sr. Divl. Personnel Officer
Eastern Railway, Sealdah
&
Respondent No. 2"

From the said speaking order, the following transpires:

- (i) That, the claim of the applicant could not be settled as her heirship could not be recognized on the ground of her divorce with the ex-employee, solemnized by an oral talaq followed by an affirmation by an affidavit dated 4.1.1988 before the Court of Judicial Magistrate, 1st Class, Rampurhat, Birbhum.
- (ii) The applicant suppressed the fact of her divorce in the O.A. No. 1357 of 2010.
- (iii) The applicant was given a personal hearing.
- (iv) A death certificate of one Fazlima Khatun, purportedly the first wife of the ex-employee, dated 22.4.2000, was produced at the time of personal hearing by the applicant and
- (v) Being a divorcee from the year 1987/1988, the applicant's claim for settlement dues does not arise.

4. The Tribunal's role in the instant CPC is confined to examination of the issue as to whether the orders of the Tribunal dated 15.10.2012 have been complied with by the alleged contemnors.

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We decipher as follows:-

(a) The Tribunal gave the applicant/petitioner liberty to make a detailed representation to the authorities for considering her case for release of settlement dues and also to indicate the status of the Review Petition along with decision rendered by the Hon'ble High Court in the Review Petition.

(b) The Tribunal further directed the respondents to take appropriate action on the petitioner's representation and to decide as per rules within a specific time frame and to communicate the decision to the applicant.

The petitioner did make a representation to the authorities on 4.12.2012 in which she has admitted that the modification application before the Hon'ble High Court had become otiose meaning thereby that it will serve no practical purpose or result.

The respondent authorities passed a speaking order regretting their inability to release any of the settlement dues on the grounds of her divorce with the ex-employee as early as in 1987, and, that, the ex-employee passed away on 10.11.1988, while in service.

The Hon'ble High Court in its orders dated 6.7.1992, had commanded the respondents to settle the dues and to release the same, "as admissible", and, hence, it was the prerogative of the respondent authorities to decide the claim of the petitioner as admissible in terms of their rules.

During hearing, the Ld. Counsel for the petitioner vociferously argues that the registered copy of the Talaqnama furnished by the respondent authorities is a nullity and does not refer to any authenticated evidence of talaq.

In contempt application, the role of the Tribunal is limited to examining as to whether there is any violation of the orders of the Tribunal dated 15.10.2012. In our considered view, with the issue of the speaking order, the alleged contemnors have substantively complied with the orders of the Tribunal and, hence, the CPC deserves to be dropped.

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Liberty is, however, granted to the petitioner to seek relief by establishing her case on the basis of a valid marriage with the ex-employee of the respondent authorities and to claim settlement dues on the basis of the same.

5. Hence, the CPC is dropped. Notices issued, if any, are discharged.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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