

**Central Administrative Tribunal  
Principal Bench**

OA No. 3081/2017

Order reserved on : 11.09.2019  
Order pronounced on: 16.09.2019

***Hon'ble Mr. Pradeep Kumar, Member (A)***

Priyanka Bijol, Age 30 years, Group 'C',  
Widow of Sh. Umesh Kumar Bijol  
R/o 393, Type-II, Sector-2,  
Sadiq Nagar,  
New Delhi-110049.

... Applicant

(By Advocate: Sh. Praveen Chaturvedi)

**VERSUS**

Union of India through  
Secretary,  
Ministry of Communication & Information Technology,  
Department of Electronics & Information Technology,  
Electronics Niketan,  
6, CGO Complex, New Delhi-110003.

... Respondents

(By Advocate: Ms. Harvinder Oberoi)

**ORDER**

The applicant herein, namely, Smt. Priyanka Bijol is the second wife of late Sh. Umesh Kumar Bijol (s/o Sh. Amar Singh and Smt. Vimla). Sh. Umesh Kumar Bijol was appointed as a Staff Car Driver in the scale of Rs.3000-4590 in a temporary capacity under Department of Electronics and Information Technology (DEITY), Ministry of Communication

and Information Technology on 03.11.2004. He was put on probation for a period of two years and thereafter he was regularised. Sh. Umesh unfortunately died on 12.06.2016.

Applicant made a representation dated 07.02.2017 to DEITY, seeking compassionate ground appointment and terminal payments on the death of her husband. This has not been replied. Hence, the grievance and this OA has been filed.

Applicant seeks relief as under:

“A. Direct the Respondent to appoint the applicant in Group “C” or any other Group in view of the representation dated 07.2.2017 (Annexure A/1), and;

a. Direct the respondent to issue benefits in view of the Death-cum-retirement Nomination, .....

Applicant has also sought the following interim relief:

“a) direct the respondent to not dispossess the Applicant from House no.393, Type-II, Sector 2, Sadiz Nagar, New Delhi-110049, which was allotted by the Respondent to her deceased husband during pendency of the Application as the applicant has no other placed to stay.”

2. In support of her contention, the applicant also pleaded as under:

(a) Sh. Umesh had earlier married Smt. Neetu and they had a son by the name Master Jatin, who is a minor and stays with parents of late Sh. Umesh namely Sh. Amar Singh and Smt. Vimla. Smt. Neetu had unfortunately expired on 09.10.2014.

After the death of his first wife, Sh. Umesh married Smt. Priyanka, the applicant herein, on 02.06.2015. In support of this marriage, a marriage certificate No.06 dated 14.10.2015 issued by the office of Gram Panchayat Lithora, Janpad Dabra, Distt. Gwalior, Madhya Pradesh has also been submitted.

Certain photographs of the said marriage have also been annexed with the OA, which indicate that the parents of Sh. Umesh had participated in this marriage and also blessed the newly wedded couple. In particular, attention was drawn to photograph at page-29 which showed Sh. Amar Singh, the father of Sh. Umesh, blessing the newly wedded couple, namely, Sh. Umesh and Smt. Priyanka and another photograph at page-30 where Smt. Vimla, the mother of Sh. Umesh, is seen blessing the bride.

(b) Sh. Umesh made an application dated 04.02.2016 to the respondents, advising that his wife Smt. Neetu had died on 09.10.2014 and he had married Smt. Priyanka on 02.06.2015 and accordingly the name of Smt. Priyanka be recorded in the service book. Name of Smt. Priyanka was accordingly recorded on the CGHS card also on 26.02.2016.

(c) Sh. Umesh also submitted an application that 50% share each out of gratuity be earmarked for Smt. Priyanka

and his son Master Jatin. This was also attested by the Deputy Director, Department of Electronics and Information Technology, Ministry of Communication and Information Technology on 15.02.2016.

(d) However, Smt. Vimla, mother of late Sh. Umesh, made a complaint to the respondents on 28.06.2016 that the claim of Smt. Priyanka to be the wife of late Sh. Umesh was false and the marriage certificate submitted in this regard is also false and she had somehow got her name recorded in the service record to be the wife and this needs to be investigated. She also represented that the interest of Master Jatin, son of late Sh. Umesh should be kept in view.

(e) In this context, applicant pleaded that after the death of Shri Umesh, her in-laws are trying to disown her and dispossess her of her rights as the wife of Sh. Umesh, despite their participation in her marriage and despite this being recorded so in the service book.

(f) It was pleaded that as the wife of Sh. Umesh, her rights after the death of her husband, cannot be obliterated.

3. Per contra, the respondents opposed the OA. It was pleaded that late Sh. Umesh had earlier given an application dated 26.11.2014 to the effect that his wife Smt. Neetu had

expired on 09.10.2014 and he wants to nominate his son Master Jatin, for 100% nomination in the service book.

4. It was further pleaded that the respondents had received a representation by Smt. Vimla, mother of late Sh. Umesh, on 29.06.2016 pleading that the claim of Smt. Priyanka as the wife of Sh. Umesh, is false and it was only under some kind of mental pressure or in a state of intoxication, that Smt. Priyanka's name was got added in the service record. The marriage certificate submitted by Smt. Priyanka, was also claimed to be false. It was also pleaded that interest of Master Jatin, son of late Sh. Umesh needs to be kept in view.

Once this representation was received, the respondents ascertained the veracity of the marriage certificate by writing a letter dated 24/25.01.2017 to the Gram Panchayat Lithora, Janpad Dabra, Distt. Gwalior, Madhya Pradesh from where said certificate was issued. A reminder was also issued. This was replied by the Janpad Panchayat Dabra on 03.10.2017 wherein it was advised that the said marriage certificate was never issued by their office and it was false.

Further, one Smt. Manjulata Bijolia, Advocate of Sh. Amar Singh, Smt. Vimla and Master Jatin, had also issued a legal notice to Smt. Priyanka on 19.08.2017 mentioning therein that late Sh. Umesh had only one marriage with Smt.

Neetu and they had a son Master Jatin and no other claim in this regard is admissible and she should desist from raising any claim in this regard, failing which civil proceedings can also be instituted against her.

On being specifically queried by Tribunal, applicant replied that no criminal or civil case has been filed against her so far. Respondents mentioned that they have no information in this regard.

5. Respondents also drew attention to a judgment dated 03.08.2015 pronounced by Family Court, Bhopal. It is seen from this judgment that Smt. Priyanka was earlier married on 13.07.2013, to one Sh. Manphool. The said judgment also indicates that Smt. Priyanka and Sh. Manphool started living separately just three days after marriage, i.e. w.e.f. 16.07.2013. However, a formal divorce petition was filed in said court on 09.01.2015, wherein judgment was pronounced on 03.08.2015 and decree of divorce by mutual consent was granted.

It was pleaded that on the date of Smt. Priyanka's marriage to Sh. Umesh on 02.06.2015, Smt. Priyanka's earlier marriage was still not annulled. Therefore, her marriage to Sh. Umesh is void ab initio. Therefore, Smt. Priyanka cannot be taken to be the legal heir of late Sh.

Umesh and this right goes to his son Master Jatin from his earlier wife late Smt. Neetu. Accordingly, the respondents cannot consider her case for compassionate ground appointment or for release of any other benefit.

It was also pleaded that since the marriage certificate has been declared to be false by the issuing authority, the applicant needs to present her case and documents etc. in support of her claim of marriage to late Sh. Umesh and try to obtain a decree of being a legal heir, from an appropriate court of law first, before her claims can be considered by respondents.

6. Matter has been heard at length. Sh. Praveen Chaturvedi, learned counsel represented the applicant and Mrs. Harvinder Oberoi, learned counsel represented the respondents.

7. The facts as they emerge from this case, indicate that Smt. Neetu, the first wife of Sh. Umesh had died on 09.10.2014 and their son from this marriage Master Jatin, is a minor and he stays with his paternal grandparents. With a view to disburse terminal payments, respondents had started correspondence with Sh. Amar Singh, with whom Master Jatin stays.

8. Late Sh. Umesh had submitted the documents to the department on 04.02.2016 claiming that he had remarried Smt. Priyanka, the applicant herein on 02.06.2015 and her name was accordingly got recorded in the service records as his wife, and was also included in the CGHS card and she was also made 50% nominee for the gratuity vide Sh. Umesh's request letter dated 15.02.2016 [para 2 (b&c) supra].

The documents relied upon by applicant to establish her status as wife of Sh. Umesh are the marriage certificate dated 14.10.2015, marriage photographs and entries in service records at the request of Sh. Umesh. Marriage certificate has been disowned by the issuing office (para 4 supra). However, no counter argument has been made as regards marriage photographs or the entries in service records.

Even though, legality of marriage, needs to be adjudicated separately by an appropriate Court, there appears to be some truth *prima facie* in the contention of applicant as contained in para 2 (e) above.

9. Smt. Priyanka, who was married earlier to Sh. Manphool on 13.07.2013, started living separately from her earlier husband just three days later to the marriage i.e. w.e.f. 16.07.2013, and a divorce petition by mutual consent was

also filed in the family court on 09.01.2015. The divorce decree by mutual consent, was also awarded on 03.08.2015.

As per the marriage certificate issued on 14.10.2015 it is claimed that Sh. Umesh had married Smt. Priyanka on 02.06.2015. On this basis on the date of the said second marriage, Smt. Priyanka was still not legally divorced from her earlier husband, even though her marriage had practically ended within just three days of marriage. Further, divorce petition was also filed already on 09.01.2015.

Applicant has claimed that under such circumstances, the marriage solemnised on 02.06.2015, has full sanctity in terms of ratio of judgment dated 24.08.2018 delivered by Hon'ble Apex Court (**Anurag Mittal vs. Shaily Mishra Mittal**) in Civil Appeal No.18312 of 2017. This aspect has, however, cannot be gone into by this Tribunal, as the same is beyond our jurisdiction.

10. During hearing in the Tribunal, the applicant had pleaded for consideration for compassionate ground appointment. In the instant case, the relied upon marriage certificate has come into question as the issuing office has testified it to be false. Thus, in the given circumstances, applicant's status as legally wedded wife of Sh. Umesh, needs to be established first by an appropriate court, before adjudication of instant OA by this Tribunal.

11. The Tribunal is of the view that benefits from the service of late Sh. Umesh, can be considered only in respect of those who are his legal heirs. There is no dispute about Master Jatin, who is a minor and who is the son of late Sh. Umesh.

In the instant case, the claim of Smt. Priyanka can be considered only if her marriage to Sh. Umesh, is declared as valid. *Prima facie*, marriage does appear to have been solemnised, in view of given circumstances namely death of Smt. Neetu wife of Sh. Umesh on 09.10.2014, marriage photographs of Smt. Priyanka with Sh. Umesh, which are claimed to be of 02.06.2015, pending divorce petition as of 09.01.2015, photographs indicating participation and blessing by parents of Sh. Umesh in marriage ceremony on 02.06.2015 and subsequent action by Sh. Umesh for getting name of Smt. Priyanka included in service book and making her nominee for 50% of gratuity while balance 50% was earmarked for Master Jatin.

However, this adjudication in respect of validity of marriage, is beyond the jurisdiction of this Tribunal and for which applicant needs to approach an appropriate court, if so advised, and seek her remedies as per law accordingly.

12. OA is disposed off with a direction to applicant to approach an appropriate court, if so advised, and seek

remedies as per law, as per her claimed status of wife of late Sh. Umesh, and thereby as a legal heir, within a period of three years and thereafter make a representation to respondents. The respondents shall withhold 50% of terminal dues in respect of late Sh. Umesh, in this period.

In case she is able to obtain such a decree in her favour in this time, the respondents shall be duty bound to consider her request for compassionate ground appointment and other consequential benefits within a further period of six months, by passing a reasoned and speaking order under advice to applicant. In such an event, if some grievance still subsists, applicant shall have liberty to approach this Tribunal to revive this OA. No costs.

( Pradeep Kumar )  
Member (A)

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