

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/312/2014

Date of Reserve:18.06.2019

Date of Order:26.08.2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

1. A.Vijayamma, aged about 44 years, D/o. Late A.Krishna Rao.
2. A.Gopi, aged about 38 years, S/o. Late A.Krishna Rao.
3. A.Santoshi Kumari, aged about 34 years, D/o. Late A.Krishna Rao

All are residing At-Gajati Nagar, PO-Jatni, Dist-Khurda.

...Applicants

By the Advocate(s)-M/s.J.K.Lenka
P.K.Behera

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, Rail Vihar, At/PO/PS-Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Divisional Railway Manager, East Coast Railway, Khurda Road, PO-Jatni, Dist-Khurda.
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, PO-Jatni, Dist-Khurda.
4. Smt.Dwarapu Sarojini Devi, D/o. D.Appa Rao, W/o.Adapa Appalaraju, At-China Bazar, Door No.3-2-133, PO/Dist-Srikakulam Andhra Pradesh.

...Respondents

By the Advocate(s)-Mr.T.Rath

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant Nos. 1 and 3 claim to be the unmarried sisters of the deceased railway employee, A.Venkata Rao, who, while working as Guard (Mail/Express) under the respondent-railways passed away on 9.1.2013. Applicant No.2 claims to be the unmarried brother of the deceased A.Venkat Rao. They have approached this Tribunal in the instant O.A. seeking for the following reliefs:

- i) Quash/set aside the relevant portion/part order dtd. 4.4.14 at Annexure-A/14 only wherein the authority (Resp.No.3) allowed family pension and other benefits in favour of the Respondent No.4.

- ii) Declare that the Applicants are entitled to get family pension and other benefits keeping in mind Annexures-A/4, A/6,A/7, A/8, A/9 and A/11 respectively and direct the Respondents to sanction the same in favour of the applicants.
- iii) And pass any other order(s)/directions which would afford complete relief(s) to the applicants in the facts and circumstances of the case.

2. Shorn of unnecessary details, it would suffice to note that earlier the applicants had approached this Tribunal in O.A.No.960/2013 for direction to be issued to respondents to sanction provident fund, death/terminal benefits, salary, medical leave allowance, group insurance, etc. of the deceased railway employee, in their favour including the family pension. This Tribunal vide order dated 26.2.2014 disposed of the said O.A. with direction to Respondent No.3 to consider the representations made by the applicants and pass a well reasoned order. In compliance of the above direction, Respondent No.3 passed an order dated 4.4.2014 (A/14), the relevant part of which reads as under:

- i) Late Akkireddi Venkat Rao, S/o.Akkireddi Krishna Rao expired on 09.01.2013 while working as Guard (Mail/Express) under the Station Manager, Khurda Road.
- ii) After the death of the ex-employee, Smt.A.Saroniji, W/o. Late A.Venkat Rao has submitted an application dated 17.02.2013 claiming the settlement dues of ex-employee.
- iii) Meanwhile, this office has also received her representations dated 02.05.2013 & 02.07.2013 (Annexure-A/10 & A/12 to O.A.) claiming the death benefits of ex-employee.
- iv) The matter was enquired into and during the course of enquiry, it is revealed that Smt.A.Sarojini is the wife of the ex-employee.
- v) Further it is revealed from the available record that the ex-employee during his life time has executed his nomination in a prescribed formats for Provident fund, DCRG and

CGEGIS in the name of A.Vijayamma on 19.5.1999 to receive the amounts on the event of death of the ex-employee.

- vi) However, from the orders of the Hon'ble JMFC/Srikakulam dated 04.07.2000 in the M.C.No.04/1999 and the legal heirship certificate issued by Tahasildar/Srikakulam it is evident that Smt.A.Sarojini is the wife of the ex-employee which has also been supported by the copy of the Invitation Card which reveals that, the marriage of Smt.A.Sarojini with the ex-employee was solemnized on 18.8.1996.
- vii) The contentions as laid in the application dated 02.7.2013 (Annexure-A/12 to the OA) is not supported with any documentary evidence. Hence, not considered.
- vii) In terms of Rule 74 of Railway Services (Pension) Rules, 1993, you are only entitled for the amounts of Provident Fund, DCRG and CGEGIS as per nominations executed by the ex-employee and Smt.A.Sarojini is entitled for family pension and other benefits being the wife of the ex-employee.

In view of the aforesaid, your representations 02.05.2013 and 02.7.2013 vide Annexure-A/10 & A/12 to the O.A. are disposed of accordingly".

3. Aggrieved with the above, the applicants have approached this Tribunal praying for the reliefs as already mentioned above.

4. The grounds on which the applicants have based their claims are that the Legal Heir Certificate issued by the Tahasildar vide A/4 dated 25.4.2013, the enquiry report of the Railway at A/7 declaring the applicants as the legal heirs of the deceased employee have not been duly considered by the Railway Authority while passing the order impugned in this O.A. According to applicants, in the said enquiry report, the line legally married wife /sole surviving widow has been cancelled. Had the ex-employee actually married to Private Respondent No.4 before his death, he could have nominated her name for medical treatment and travelling in the Railway, being the legally married wife.

4. The further ground urged is that during the entire service career, the deceased employee had never nominated Respondent No.4 for getting any type of benefits from the Railways. Therefore, acceptance of Legal Heir Certificate issued by the Tahasildar, Srikakulam supported by invitation card that marriage was solemnized on 18.8.1996 stands contrary to the enquiry report at A/7 as conducted by the Railway Authorities. It has been pointed out that Hon'ble Andhra Pradesh High Court at Hyderabad in CRLMP No.1117/05 filed by the brother of the applicants, an interim order has stayed the further proceeding in M.C.No.4/99 dated 4.7.2000 on the file of Judicial Magistrate First Class, Srikakulam as confirmed in R.P.No.62/2000 dated 1.12.2004 on the file of 1st Addl.District & Sessions Judge, Srikakulam.

5. Applicants have pointed out that Respondent No.4 is the legally married wife of one Adapa Appalaraju of China Bazar Street, Door No.3-2-133 of Srikakulam which is evident from A/11 dated 20.5.2007. According to them, the marriage was solemnized on 1.7.2007 and since then Respondent No.4 has been residing at Srikakulam District and enjoying conjugal life with said Sri Adapa Appalaraju. Although this fact has been mentioned in A/12 dated 2.7.2013, but the same has not been considered at all while granting family pension and other benefits in favour of Respondent No.4 vide impugned order dated 4.4.2014 (A/14).

6. Private Respondent No.4 though duly noticed has neither entered appearance nor filed any counter. Per contra, respondent-railways have filed their counter. According to respondent-railways, the genuineness of claim for payment of death benefits was enquired into by deputing Sectional Staff & Welfare Inspector (S&WI), Khurda Road, who submitted the inquiry report on 16.5.2012 (R/2) stating that Smt.A.Sarojini @ A.Sarojini @ A.Roja is the

legally married wife of late A.Venkata Rao, who is residing separately with her son at her parental house at Srikakulam since 1997 and receiving the maintenance @ Rs.1000/- per month with effect from 27.01.1999 from the ex-employee as per the order of Judicial Magistrate (1st Class), Srikakulam in M.C.No.4/1999 dated 04.07.2000 (R/3). The official respondents have mentioned that after due enquiry, the pensionary benefits have been released in favour of Respondent No.4 vide R/8. Respondent-railways have submitted that applicant no.1 is the un-married daughter of late A.Krishna, Ex.Asst.Guard, Khurda Road. After the death of A.Krishna Rao, his wife Smt.A.Satyabadi was receiving family pension and after the death of A.Satyabadi, the applicant no.1 has been sanctioned family pension vide P.P.O.No.120201180985 dated 05.08.2009 (R/11). According to them, as per Rule-75 of Raiwlay Services (Pension) Rules, 1993, during the life time of Smt.A.Satyabadi, the applicant no.1 was not entitled to receive family pension. Therefore, she cannot claim the same as a matter of right especially when the family pension has already been sanctioned in favour of legally married wife of the ex-employee late A.Venkat Rao vide PPO under R/8. Hence, according to respondent-railways, since it has been established that Respondent No.4 is the legally married wife of the deceased railway employee, she is entitled to family pension.

7. Applicants have not filed any rejoinder to the counter.

8. Heard the learned counsels for both the sides and perused the records. This Tribunal has also taken into consideration A/4, A/6, A/7, A/8, A/9 and A/11 to the O.A. as relied on by the applicants in support of their claims vis-a-vis R/2, A/3 and A/11 to the counter. There is no dispute that in compliance of the order dated 4.7.2000 passed by the Judicial Magistrate of 1st Class,

Srikakulam in M.C.No.4/99. Respondent No.4 is in receipt of maintenance as awarded therein being the legally married wife of the deceased railway employee. The whole dispute centres round the fact as to whether Respondent No.4 is the legally married wife of the deceased railway employee A.Venkata Rao. At this stage, it is pertinent to note that legality of Legal Heir Certificate issued by the Tahasildar, Srikakulam in favour of Respondent No.4 has not been challenged by the applicants. Similarly, the Temple Marriage Certificate (A/11) showing that Respondent No.4 having married to one Adapa Appalaraju on 02.07.2007 could not have been the legally married wife of the deceased railway employee is not a credible document and thus calls in question on its legal sanctity. On the contrary, the order of the JMFC, Srikakulam dated 4.7.2000 in M.C.No.4/99 awarding maintenance in favour of the Respondent No.4 being the legally married wife of the deceased railway employee holds good. From this, it is axiomatic that Respondent No.4 is the legally married wife of the deceased railway employee. This being the admitted position, this Tribunal is of the opinion that the order dated 4.4.2014 (A/14) passed by the Senior Divisional Personnel Officer, East Coast Railways holding that Respondent No.4 is entitled for family pension and other benefits being the wife of the ex-employee warrants no interference.

9. For the reasons discussed above, the O.A. is dismissed being devoid of merit, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS