

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 040/00355/2017

Date of Order: This, the 27<sup>th</sup> day of May 2019

**THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER**

Smti. Lukhi Devi  
W/o Late Rajendra Bansfore  
Deharia, Jute Mills (Harijan Basti)  
P.O. – Deharia, District – Katihar, Bihar – 854301.

**...Applicant**

By Advocates: Mr. S. Nath & Mr. G.J. Sharma

-VERSUS-

1. The Union of India  
Through General Manager  
N.F. Railway, maligaon  
Guwahati – 11.
2. The Divisional Railway Manager  
N.F. Railway, Katihar Division, Bihar, Pin – 854105.
3. Divisional Railway Manager (P), Katihar  
N.F. Railway, Katihar Division, Bihar, Pin – 854105.

**... Respondents**

By Advocate: Mrs. U. Dutta, Railway Advocate

**ORDER (ORAL)**

**NEKKHOMANG NEIHSIAL, MEMBER (A):**

This O.A. has been preferred by the applicant under Section 19 of the Administrative Tribunals Act 1985 seeking the following reliefs:-

- “8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order dated 03.03.2016.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to release family pension to the applicant in terms of Rule 75(7)(i)(a) & (b) of Railway Services (Pension) Rules, 1993.
- 8.3 Any other relief or reliefs as the Hon'ble Tribunal may deem fit and proper including the cost of the case.”

2. Grounds for relief are that – the applicant is claiming that she is entitled to family pension of Late Rajendra Bansfore in terms of Rule 75 (7) (i) (a) & (b) of Railway Services (Pension) Rules, 1993. The first wife of Late Rajendra Bansfore, Late Uttam Devi deserted company of Late Rajendra Bansfore in the year 1986 and therefore, Late Rajendra Bansfore married the applicant. As such, the applicant is only eligible surviving family member to receive the family pension of Late Rajendra Bansfore. The name of the applicant appears in the family declaration given by Late Rajendra Bansfore in the year 2008. As such, the railway authorities are duty bound to release family pension in favour of the applicant. In the pension paper submitted by Late Rajendra Bansfore, he affixed photograph of the applicant in joint photograph and also put date of birth of the applicant in the column as eligible for family pension. As such, there is no dispute that the applicant is only surviving

eligible family member to receive family pension of Late Rajendra Bansfore in terms of Railway Services (Pension) Rules, 1993.

3. The Ward Councilor report at page 2 is wrong and full of misleading facts. Moreover 2<sup>nd</sup> page was not taken in presence of any witness. As such, the impugned order based on incorrect report of the Welfare Inspector and Ward Councilor is liable to be set aside and quashed. There is no contesting claim and no dispute regarding entitlement of family pension of Late Rajendra Bansfore by the applicant. The DRM (P), Katihar has arbitrarily stated in the impugned letter dated 03.03.2016 that the applicant is not entitled to family pension of Late Rajendra Bansfore. There is no contesting claimant of family pension of Late Rajendra Bansfore. As such, the applicant is entitled to family pension of Late Rajendra Bansfore as per Rule 75(7)(i)(a)&(b) of Railway Services (Pension) Rules, 1993. The applicant was surviving on the family pension of Late Rajendra Bansfore and after his death the applicant has no other source of income and leading her life in a miserable condition. As such, she submitted a representation on 15.07.2016 but to no result.

4. The respondents filed their written statement on 28.08.2018 wherein they have pointed out at para 6 & 7 as under:-

6. The husband of the applicant Sri Rajendra Basfore was working as Sanitary Cleaner under SSE/C&W/BG/KIR. He retired from service on 30.06.2008. On the day of retirement of ex-employee Late Rajendra Bansfore, ex-sanitary cleaner, no advance family pension was sanctioned which is evident from Annexure-2 itself in the O.A. Also during the final check, the dispute was detected and the ex-employee was asked for the clarification vide official letter dated 09.06.2008, but no clarification was produced by the ex-employee till his death.
7. In the office record, neither it establishes that Smt. Uttam Devi married to someone Jungli Bansfore and nor any divorce certificate of ex-employee that is of Lt. Rajendra Basfore is available.

5. They also highlighted at para 8 of their written statement as under:-

The applicant was married to the ex-employee Late Rajendra Bansfore in the year 1986. Since the ex-employee did not produce any divorce certificate to the respondent authority and also did not inform the authorities about his second marriage as such it is well presumed, rather establishes that the second marriage between Late Rajendra Basfore and Lukhi Devi is not a valid marriage hence as per section 5 of the Hindu Marriage Act 1955 the said marriage is void therefore family pension was rightly denied to the applicant.

6. The case was heard on 27.05.2019 and accordingly disposed of.

7. Facts of the case are that – the husband of the applicant Late Rajendra Bansfore was working as Sanitary Cleaner Grade III under SSE/C & W/BG/KIR. He retired from Railway service on superannuation on 30.06.2008. He died on 29.06.2009. During the processing of his pension papers, the respondent authorities detected that the name of wife did not match with what has been recorded in his service book. He was asked to clarify vide their letter dated 09.06.2008. However, before he could give any clarification, the pensioner Rajendra Bansfore expired. Subsequent to this, the present applicant Smti. Lukhi Devi applied for family pension. Enquiry was conducted. From the enquiry report, it has been observed that the deceased Late Rajendra Bansfore did have 1<sup>st</sup> wife by the name Uttam Devi. They have one daughter by the name Beena Devi. The 1<sup>st</sup> wife and daughter also had expired. The deceased Govt. servant had also 2<sup>nd</sup> wife by the name Lukhi Devi (applicant in the instant case). Details of the children are given in the report of Ward Councilor. The representation of the applicant for family pension, however, has been rejected by the respondent authorities vide their letter No. E-105/06-2008/MECH (FS) dated 03.03.2016 without assigning any reason. However, in

the said rejection letter, it has been acknowledged by the respondent authorities that the deceased Govt. servant did have 2 wives. The husband of the applicant was not sanctioned advance family pension due to dispute in the name of two wives. They also acknowledged that the 1<sup>st</sup> wife had expired.

8. During the hearing, the learned counsel for the applicant was stressing that as per orders/rules of the Ministry of Railways, the applicant is fully entitled to get family pension particularly after the date of 'non-existence' of the 1<sup>st</sup> wife. In fact, the orders of Ministry of Railways do have a provision for granting family pension to more than one wife. He also pointed out that the deceased Govt. servant had already recorded the name of the applicant in the details of his family in the Retired Railway Employees' Liberalised Health Scheme with date of birth of the applicant indicating as 16.01.1963 which was duly accepted by the competent authority.

9. The learned railway counsel for the respondents Mrs. U. Dutta pointed out that the issue is not really about 'non-existence' of relevant provision for covering the 2<sup>nd</sup> wife for family pension. It is the issue of whether the applicant is really genuine 2<sup>nd</sup> wife of the deceased Govt. servant. In this

connection, she pointed out that as per her application to the Under Secretary, Ministry of Pension PG & Pension Welfare, Khan Market, 3<sup>rd</sup> Floor, New Delhi put at Annexure-R-2, she had married to the deceased Govt. servant in the year in the year 1986 after the death of his 1<sup>st</sup> wife Uttam Devi who expired on 28.09.1985 whereas in the death certificate of the 1<sup>st</sup> wife, it is indicated as 23.04.2006. Moreover, in the report of Ward Councilor, the 1<sup>st</sup> wife is recorded as 'expired' on 28.04.2006. Due to these discrepancies, the respondents have not been able to consider the case of the applicant.

10. I have considered the above issues very carefully. It is observed that the above discrepancies as pointed out by the learned counsel for the respondents are not entirely due to mistakes of the applicant. This can be verified and rectified through appropriate procedure. The very existence of 2<sup>nd</sup> wife is also accepted and acknowledged. If there was any lapse on the part of the deceased Govt. servant, the blames should not be heaped upon the wife who must not have been aware of such lapses and could not have been a party of such mistakes on the part of the deceased Govt. servant.

11. It is also observed that in the rejection letter of the respondent authorities under No. E-105/06-2008/MECH (FS) dated 03.03.2016, the reasons for rejection has not been amplified.

12. Keeping in view of the above, the respondent authorities are hereby directed to verify once again the genuineness the claim of the applicant and consider her case for granting of family pension as admissible under the orders of Ministry of Railways for family pension.

13. The above action may be completed by the respondent authorities within a period of four months from the date of receipt of a copy of this order.

14. With the above observations and directions, O.A. stands disposed of accordingly. There shall be no order as to costs.

**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**