

O.A. No.021/01209/2015

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/01209/2015

Date of Order :23.07.2019.

Between :

N.Swaroopa, w/o late N.Goutham,
Aged about 45 yrs, Occ:Housewife,
r/o H.No.18-7-466/B/2/12/A, Ambika Nagar,
Uppuguda, Hyderabad-500 053. ...Applicant

And

1. The General Manager, South Central Railway,
Rail Nilayam, Secunderabad-500 071.
2. The Divisional Railway Manager
(Personal Branch), South Central Railway,
Hyderabad Division, Secunderabad.
3. Sr.Divisional Personal Officer,
South Central Railway, Divisional Office,
Personnel Branch, Hyderabad Division,
Hyderabad Bhavan, Secunderabad-500 071.
4. Umarani, w/o Ashok, aged about 48 yrs,
Occ:Housewife, r/o Door No.8-3-126,
2nd Bazar, Secunderabad-500 003. ... Respondents

Counsel for the Applicant ... Mr.M.Venkanna

Counsel for the Respondents ... Mr.M.Brahma Reddy, SC for Rlys.

CORAM:

THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)

ORAL ORDER

BY B.V.SUDHAKAR, MEMBER (ADMN.)

2. The OA is filed for not granting pension and considering the case of the applicant for compassionate appointment.

3. The brief facts of the case are that the applicant married late Sri N.Gautam, who worked in the respondents' Organization. After a lapse of few years, applicant claims that her late husband used to torture her physically and her welfare was not taken care of. Unable to bear the torture, she left her husband and made many attempts to counsel her husband to improve his behaviour, but in vain. Through wedlock with her late husband, she was blessed with three girls and they are all unmarried. As her late husband was not taking care of the applicant and her children, she approached the competent Court in O.P.No.83/2001 for grant of maintenance. The competent Court granted maintenance of Rs.800/- per month. This was followed by another suit for enhancement of maintenance. Instead of resolving the issue, applicant's late husband foisted a false case against her relatives by lodging a Police complaint in Secunderabad Market Police Station. A charge sheet was filed bearing the number C.C.No.249/1997, which was ultimately heard and the applicant and her relatives were acquitted of the charge. Applicant claims that the operative portion of the judgment is an indication that she is the legally wedded wife

of late employee. Further, it also establishes the fact that the 4th respondent is not the legally wedded wife. Based on this fact, applicant represented on 25.02.2015 requesting for pension and pensionary benefits with no fruitful result. Therefore, O.A.No.587/2015 was filed before this Tribunal, which was disposed of directing the respondents to respond to the representation of the applicant. In response, the respondents have directed the applicant to prove her credentials as the legally wedded wife of late Sri N.Goutam by obtaining a declaratory decree from competent Court of law duly impleading the 4th respondent. Aggrieved over the same, OA has been filed.

4. The contentions of the applicant are that she is the legally wedded wife of late employee Sri N.Goutam. The Ration Card and Study Certificates of the children born out of the wedlock are ample proof to this effect. It is a settled position of law that a bigamy during the subsistence of first marriage becomes ab initio void as per the Hindu Marriage Act, 1955 and also amounts to a crime as per the penal provisions of IPC. Even if the late employee has nominated the 4th respondent to receive pension and other benefits, she can only be a receiver, but not the person to receive and enjoy. It is for the respondents to verify as to whether the first marriage has been dissolved by a proper divorce decree.

5. Respondents, in their reply statement, have informed that as there are dual claims for payment of pension and death benefits, rival parties were advised to obtain a declaratory decree from the competent Civil Court. Late employee, while he was alive, has declared that the 4th respondent as his wife. The same was recorded in the respondents' records. Applicant hitherto had filed O.A.No.587/2015, which was disposed of at the admission stage to examine her representation and dispose of the same. With the same facts, present OA has been filed, and at Para 7, applicant stated that she has not filed any other OA in other Courts or before this Tribunal seeking the same relief. Respondents are not aware of the applicant's marriage with the deceased employee as there are no records to this effect. Applicant has also failed to submit any relevant document to strengthen her claim. The funeral advance granted consequent to the demise of the husband of the applicant was paid at the address given by the late employee. Only on the representation of the applicant on 25.02.2015, it has come to light that the late employee had another wife by name N.Uma Rani. The 4th respondent has also submitted in support of her claim Aadhar Card, Ration Card, Employee ID Card and Death Certificate issued by the Municipality.

Respondents have also stated in the additional reply statement that the applicant and the 4th respondent have filed an affidavit in I.A.No. /2017

in F.C.O.P.No.751/2015 and I.A.No.474/2019 in F.C.O.P.No.751/2015. Therefore, when the civil case is under adjudication by the competent Civil Court, respondents are not in a position to release the pension and pensionary benefits unless one of them obtains the declaratory decree from the competent Court of law.

6. Heard Mr.M.Venkanna, learned counsel for the Applicant and Mr.Bhim Singh, proxy counsel, representing Mr.M.Brahma Reddy, learned Standing Counsel for the Respondents. Perused the pleadings on record.

7 (I) Applicant has claimed that she is the legally wedded wife based on the submissions made by the late employee and the 4th respondent before the competent Court in I.A.No. /2017 in F.C.O.P.No.751/2015 and I.A.No.474/2019 in F.C.O.P.No.751/2015. The applicant was also granted maintenance by the competent Court in O.P.No.83/2001 for a sum of Rs.800/-. These facts, according to the applicant, prove that she is the legally wedded wife of the late employee. However, 4th respondent has also produced certain documents making a rival claim. Consequently, respondents have directed the applicant to obtain a declaratory decree from the competent Court, so that the pension and pensionary benefits could be released.

(II) Respondents have also brought to the notice of this Tribunal that both the applicant and the 4th respondent are contesting a Civil case in I.A.No. /2017 in F.C.O.P.No.751/2015 and I.A.No.474/2019 in F.C.O.P.No.751/2015 about their respective claims. Hence, when there is a Court case, respondents would obviously not be able to release the benefits until the same is decided by the competent Court.

(III) Applicant in all fairness should have stated about the pending Court cases. Nevertheless, as submitted by the respondents, the issue may have to be decided only after the competent Court delivers the judgment in the civil cases stated above. Hence, in view of the above, respondents are directed to decide the issue depending on the outcome of the cases cited supra.

(IV) With the above direction, the OA is disposed of. No order as to costs.

**(B.V.SUDHAKAR)
MEMBER (ADMN.)**

Dated:this the 23th day of July, 2019

DSN.