

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/911/2018**

Jabalpur, this Thursday, the 22<sup>nd</sup> day of August, 2019

**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Rukhsana Begum (Occu:NIL)  
D/o Late Moinuddin  
Aged about 60 years  
Add: Pardesipura Kaziyan Masjid  
Ke Pass Khandwa (M.P.)

**-Applicant**

(By Advocate –**Shri Saketanand Tiwari**)

**V e r s u s**

1. Union of India  
Through Secretary of Information  
And Telecommunication Ministry  
109 1<sup>st</sup> Floor Sanchar Bhawan  
New Delhi 110001

2. Superintendent Rail Dak Seva  
Office of Supdt. Rail Dak Seva  
I.D. Mandal Indore Division  
Indore (M.P.)

3. Senior Accounts officer (Pension)  
Postal Accounts Office of the Director  
Fifth Floor Dak Bhavan, Hoshangabad Road  
Bhopal (M.P.) 462027

4. Director of Accounts (Postal)  
4<sup>th</sup> Floor, Dak Bhavan Bhopal (M.P.)  
462027

**- Respondents**

(By Advocate –**Shri D.S. Baghel**)

*(Date of reserving the order:-01.08.2019)*

## **ORDER**

This Original Application has been filed by the applicant against the order dated 18.07.2018 issued by respondent No.2 whereby the applicant has been asked to submit divorce decree issued by competent court.

2. The applicant has prayed for the following reliefs:-

*“8(i) That, the Hon’ble Tribunal may be please to quash the order (letter) impugned contained in Annexure A/1 issued by R2 by issuing an appropriate order or direction like of nature.*

*(ii) That, the Respondents may be command to allow the Pension of the petitioner as she is the only entitled person to get the pension of her father under Family pension scheme.*

*(iii) Any other relief which the Hon’ble Tribunal deems fit and proper, in view of the facts and circumstances of the case may also be granted including costs of application.”*

3. Precisely the case of the applicant is that the applicant is the daughter of Late Moinuddin who was working as mail man in the Postal Department (RMS) Khandwa and got retired on 30.06.1996. He died on 19.06.2000. Thereafter the mother of the applicant had

also died earlier on 29.06.1994. The applicant is a divorcee and she was sole dependent on her father. As per the nomination form filled by applicant's father in the year 1995, the applicant is the only person entitled to get family pension. The applicant has submitted all the necessary documents regarding pension. The respondents vide letter dated 14.07.2015 informed the applicant that the divorce certificate issued by Kazi is not acceptable and a decree of divorce issued by court can only be accepted. The applicant challenged the said order by filing O.A. No.200/991/2015 which was dismissed vide order dated 14.06.2016 (Annexure A-9) wherein it has been stated that the document filed by the applicant as a proof of divorce is not a divorce certificate and is only a statement given by the applicant which cannot be treated as Talaqnama issued by Kazi. Against the order of the Tribunal, the applicant approached the Hon'ble High Court by filing Writ Petition No.20397/2016 wherein the Hon'ble High Court has upheld the order of this Tribunal and dismissed the petition

vide order dated 07.03.2018 (Annexure A/12). The applicant again submitted a representation dated 02.04.2018 (Annexure A/8) along with Talaqnama (original Annexure A/6 and A/7) by following another representation dated 24.06.2018. The respondents vide letter dated 18.07.2018 (Annexure A/1) have asked the applicant to provide divorce/Talaq certificate duly issued by competent court. The respondents have not considered the Talaqnama issued by Kazi as a valid document. Hence this Original Application.

4. The respondents have filed their reply. It has been submitted by the respondents that Late Moinuddin who was superannuated from service w.e.f.30.06.1996 and he was receiving the family pension till his death. It has been submitted by the respondent-department that at the time of superannuation deceased employee did not disclose the fact with regard to the divorce of his daughter as while submitting the list of dependent name of the applicant was not included in the list of dependent by the deceased

employee which clearly shows that the claim of the applicant is just afterthought because if it would been a case of divorce as claimed by the applicant in the year 1975, it would have been disclosed by the deceased employee in the year 1996 at the time of superannuation. The applicant did not produce any legal document to show the valid separation with her husband. Moreover documents at Annexure A/5, A/6 and A/7 is not a divorce certificate and the contents of the said Annexures disclosed that the same has been written by Kazi on the information given by the applicant and she has not furnished any legal/valid document her claim for grant of family pension has not been processed. It has been submitted by the respondents that Postal Accounts Bhopal required divorce certificate issued by Hon'ble Court from applicant vide letter dated 07.07.2015. The respondents submitted that the dependent daughter can avail family pension after the death of his father and her mother as per CCS (Pension) Rules, 1972. It has been submitted by the respondents that

the applicant had filed O.A. No.991/2015 before this Tribunal which was dismissed vide order dated 14.06.2016. The same was challenged before the Hon'ble High Court in W.P. No.20397/2016. The Hon'ble High Court upheld the order of this Tribunal and dismissed the said W.P. Hence the case of the applicant comes under the principle of res-judicata and is liable to be dismissed.

5. Heard the learned counsel for both the parties and I have also gone through the documents annexed with the pleadings.

6. From the pleadings it is admitted fact that Late Shri Moinunddin was superannuated from the service on 30.06.1996 and was receiving pension it is also admitted fact that the name of the applicant was reflected as a daughter in the declaration given by the deceased employee during his life time when he was in service. It is also admitted fact that the applicant had applied for family pension as the mother of the applicant had died earlier to

the death of his father Shri Moinuddin. It is also admitted fact that the applicant had earlier preferred O.A. No.991/2015 before this Tribunal which was dismissed with the reasons that the document filed by the applicant as a proof of divorce is not a divorce certificate and is only a statement given by the applicant which cannot be treated as Talaqnama issued by Kazi. It is also admitted fact that the applicant had approached the Hon'ble High Court by filing Writ Petition No.20397/2016 against the order of this Tribunal. Hon'ble High Court had dismissed the writ petition and upheld the order of this Tribunal.

7. The contention of the applicant is that the applicant is a physically handicapped and was divorced by her ex-husband who had also died. The applicant has relied upon the judgment passed by Hon'ble High Court wherein it has been held that the Talaqnama is a valid document and there is no need for court decree. Vide letter dated 18.07.2018 the respondent department has intimated the applicant to provide divorce certificate issued by court and

as per Annexure A/7 dated 08.02.2016 the said certificate has been issued by काजिए शरियद दारुलकजा बुरहानपुर and as per Shariyat law the applicant has given divorce certificate by Kazi.

8. It has been further submitted by the applicant that the plea of resjudicata raised by the respondent-department will be as per Annexure A/1, the respondents have rejected the case of the applicant for family pension due to the failure of divorce certificate. Further contention of the applicant is that as per nomination the name of the applicant is figured in the official record of the deceased employee which is clear as per Annexure A/4 and the name of the applicant has been entered in the nomination on 23.01.1995 admittedly before the retirement of the deceased employee. It is relevant to mention that the employee had died on 19.06.2000 and the mother of the applicant died on 29.06.1994 i.e. prior to the death of Shri Moinuddin.



9. The applicant has placed on record Annexure A/10 whereby it has been held that Talaqnama is a valid document, no need for a court decree as this has been held by Hon'ble High Court of Bombay. Annexure A/12 has also been placed on record whereby the order of the Hon'ble High Court of Madhya Pradesh in Writ Petition No.20397/2016.

10. It is clear from Annexure A/4 that the name of the applicant has been entered in the nomination for non contributory family pension and deceased employee has himself entered the name of the applicant in the nomination form prior to his retirement. If this document is seen, it is clear indicated that the applicant is married but divorced (Talaqshuda) and at present is living in the father's house. This document has been prepared under Rule 55 (7). As per Annexure A/7 the divorce certificate has been issued by काजिए शरियद दारूलकजा बुरहानपुर and as per order dated 08.08.2016 (Annexure A/7) it has been held that the applicant has filed his case No.14/994

(Rukhsana Begum vs. Sheikh Kadar) and the applicant has been declared as a divorcee and is entitled for family pension. It is pertinent to mention that in view of the Annexure A/7 coupled with A/4 (nomination for under Rule 55(7) of the Pension Rules the applicant is entitled for family pension. Regarding the order passed by this Tribunal in O.A.No.200/991/2015 and the order passed by Hon'ble High Court in W.P. No.20397/2016 the Khulasa Talaqnama dated 29.05.2015 has not been considered as a valid document. In the present case, the applicant is aggrieved against the order dated 18.07.2018 (Annexure A/1) whereby the respondents has intimated the applicant to produce on record the divorce certificate (Talaqnama) so in instant case Annexure A/1 has been challenged by the applicant after dealing with the divorce certificate from the Kazi as per Annexure A/7 in my view this is a valid document issued by Kazi.

**11.** Resultantly this Original Application is allowed. The impugned order dated 18.07.2018 (Annexure A/1) is

quashed and set aside. Respondents are directed to consider the case of the applicant for family pension, in view of the nomination form under Rule 55 (7) which is the part of the service record of the deceased employee. The said exercise shall be done within 90 days from the date of receipt of a copy of this order. No costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**

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