

1  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA

OA. 350/00090/2014

Date of Order: 19. 01. 2016

Present

Hon'ble Mr. Ashok Kumar Patnaik, Judicial Member  
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Smt. Thakurmani Murmu, widow of late  
Narayan Murmu, aged about 54 years  
(Housewife) Ex-Khalasi, CO- 7 No.  
South Eastern Railway 3, Kharagpur  
residing at Village- Bannagazar, Post  
Office- Dubra, Police Station- Jamboni,  
District-Paschim Medinipur, Pin Code-  
721505.

.....Applicant.

-versus-

1. Union of India, service through the  
General Manager, South Eastern  
Railway, Garden Reach, Kolkata-  
700043.
2. General Manager, South Eastern  
Railway, Garden Reach, Kolkata- 43.
3. Chief Account Officer, South Eastern  
Railway, Garden Reach, Kolkata - 43.
4. Chief Personnel Officer, South Eastern  
Railway, Garden Reach, Kolkata - 43.
5. Deputy Financial Advisor and Chief  
Accounts Officer (W./S.), Kharagpur;  
Post Office and Police Station- Kharagpur  
District- Paschim Medinipur.

.....Respondents.

For the Applicant

: Mr. TK Biswas, Counsel

For the Respondents

: Mr. M. K. Bandyopadhyay, Counsel

## ORDER

Ms. Jaya Das Gupta, AM:

The applicant Smt. Thakurmani Murmu had applied under Section 19 of Administrative Tribunal Act, 1985 seeking the following reliefs:

"8(a) An order directing the respondents to grant family pension to the applicant who is being the widow of Late Narayan Murmu (superannuated from service on 30.11.2000 and died on 17.12.2000) by setting aside the impugned order dated 30.11.2013 passed by the Dy. Chief Materials Manager, South Eastern Railway, Kharagpur, within a stipulated period of time.

(b) Pass an order directing the respondents to certify and transmit the relevant document of the instant case so that conscionable justice may therein be administered.

(c) Pass such order or orders as your Lordships may deem fit and proper."

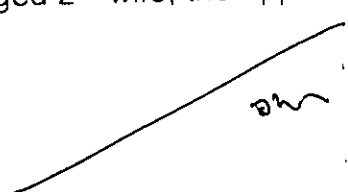
2. We have perused the pleadings in details. There are several incongruities which stand in the OA of granting relief to the applicant who is the alleged 2<sup>nd</sup> wife. They are as follows:

(a) The ex-employee did not declare any family members with the result no family pension was sanctioned or mentioned in the PPO.

(b) The ex-employee declared he had divorced his wife on 20.03.1977 while the applicant produced a certificate from the Anchal Pradhan to the effect that the first wife, Smt. Lakhi Murmu died on 18.05.1972. These facts are contradictory to each other.

The above statements do not support each other because the ex-employee could not have divorced his wife after her death.

(c) No document has been produced to prove marriage of ex-employee with the alleged 2<sup>nd</sup> wife, the applicant.



(d) The applicant came out with her claim for family pension and other benefits only after the death of the ex-employee on 17.12.2000, having retired on 30.11.2000.

(e) In her prayer for succession certificate of legal heirs she has claimed such right not for herself but her minor son.

(f) The employer of the ex-employee i.e. Railways has not been made a party in the succession certificate case as it is apparent from the reply of the respondent authorities.


3. In addition to the above incongruities we also note an order was passed by Hon'ble High Court. Relevant part of which is set out below in WPCT No. 100 of 2013 delivered on 21.03.2013.

"The petitioner claims that she is the wife of one Narayan Murmu, who expired after retiring from his employment with the South-Eastern Railway. Narayan Murmu retired on superannuation on 1<sup>st</sup> December, 2000 and expired on 17<sup>th</sup> December, 2000. The Petitioner claimed that she was entitled to family pension, as she was the wife of Narayan Murmu. There is no doubt that Narayan Murmu was earlier married to one Lakhi Murmu, who pre-deceased him in 1972. It was thereafter, according to the petitioner, that Narayan Murmu married her.

The claim for family pension was rejected by the Respondents on the ground that Narayan Murmu had not declared that the Petitioner was his wife in any of the records available with the Respondents. A Succession Certificate has been issued in the name of Biren Murmu, who was the minor son of Narayan Murmu. The Succession Certificate shows that it has been applied for by the Petitioner as natural guardian of Biren Murmu. However, she did not care to apply for a Succession Certificate in her own name.

The Tribunal has rejected the Petitioner's claim for family pension because there were no records to establish that she was, in fact, the wife of Narayan Murmu, although she claimed that she was married to him in 1975. The Tribunal has also rejected her claim on the ground that there is a delay of eleven years.

It is now well settled that in the case of family pension delay does not disentitle the person from securing family pension. Therefore, this finding of the Tribunal is incorrect. However, it is not possible to accept the Petitioner's contention that she was, in fact, married to Narayan Murmu when there is no Succession Certificate in



her favour nor are there any other records to establish that she was married to him.

In the event the Petitioner produces the necessary certificates/documents to establish her claim that she was the wife of Narayan Murmu, the Respondents shall consider her case for family pension, as there is no question of any delay in claiming the family pension.

Petition is disposed of accordingly."

4. In response to the solemn order of Hon'ble High Court in WPCT No. 100 of 2013, the respondent authorities being the Deputy Chief Materials Manager, S. E. Railway, Kharagpur had passed an order on 30.10.2013, which is being set out below:

" No. E/Staff/CC/Thakurmoni/1926/D

Dated: 30.10.2013

To

Smt. Thakurmoni Murmu,  
At Village- Bannagazar,  
P. O.- Dubra,  
P. S. Jamboni,  
Distt- Paschim Medinipur (W. B.)

Sub: Implementation of order dt. 21.03.2013 passed  
by the Hon'ble High Court/Calcutta indisposing  
WPCT No. 100 of 2013. Smt. Thakurmoni Murmu  
Vs- UOI & Ors.

Whereas the WPCT No. 100 of 2013 filed by you against the order of the Hon'ble CAT/CAL dt. 27.9.2012 on OA No. 259 of 2011 in the Hon'ble CAT/CAL has been disposed of vide order dt. 21.03.2013 with the following orders/directions:

In the aforesaid Court's order dt. 21.03.2013 it is stated about your claim that "it is not possible to accept the petitioner's contention that she was, in fact, married to Narayan Murmu, when there is no succession certificate in her favour nor are there any other records to establish that she was married to him". Secondly, it is also categorically mentioned in the judgement dt. 21.03.2013 that " in the event the petitioner produces the necessary certificates/documents to establish her claim that she was the wife of Narayan Murmu, the respondents shall consider her case for family pension, as there is no question of any delay in claiming the family pension." In the aforesaid judgment, the court has stated the precondition, that is, if documents are produced by the petitioner in support of her claim that will be considered by the respondents.



Since no documents were being submitted by you to this office, a letter bearing No. E/Staff/CC/Thakurmoni/756/D dt. 06.07.2013 was sent to you advising you to submit the necessary certificates/documents such as copy of marriage certificate between you and Late Narayan Murmu in the year 1975 form Registrar/Gram panchayet/District Magistrate. Consequent upon the above, you have submitted the certificate of Marriage dt. 10.07.2013 from the Pradhan, Dubra Gram Panchayet, P. S. Jamboni under Paschim Medinipur district.

As per procedure, family pension is not sanctioned to anybody (Claimant) unless the genuinity of the claimant being the wife of the deceased Rly. Employee (Pensioner) is proved beyond doubt on the basis of available office records of any documents submitted by the applicant. As such your claim being the wife of Late Narayan Murmu is adjudged as under:

In terms of this office records Late Narayan Murmu retired from Railway service w.e.f. 31.11.2000 on superannuation. On his retirement, self pension was passed vide P.P.O. No. Pen/SE/KGP(W)/2000/B-337/28B/P/75/PS-E/1372 dt. 30.10.2000. Since he declared in the Settlements document that his wife Smt. Lakhi Murmu had predeceased him along with a copy of certificate of death of Smt. Lakhi Murmu on 18.05.1972 from the Pradhan, Dubra Gram Panchayet, P. S. Jamboni dt. 25.11.2000. Subsequently, you made a representation dt. 31.08.2001 for granting family pension in your favour mentioning details of family members left behind by Late Narayan Murmu, enclosing a certificate of family composition of Late Narayan Murmu, dt. 27.12.2000 from the Pradhan, Dubra Gram panchayet, Jamboni, Midnapore.

Family Composition of late Narayan Murmu are as under:

1) Smt. Thakurmoni Murmu	- Wife	- 45 yrs.
2) Kumari Kajal Murmu	- Daughter	- 14 yrs.
3) Kumari Sukul Murmu	- Daughter	- 10 yrs.
4) Sri Biren Murmu	- Son	- 6 yrs.

You have also submitted a copy of succession certificate in the name of minor Sri Biren Murmu (Son) with mention of your name as natural guardian, rendering two daughters without shares of the Sett. dues of Late Narayan Murmu, while the succession certificate is for withdrawal of Sett. dues of late Narayan Murmu deposited with the bank. In consequence of the above, no decision for granting F/pension to you could have been taken.

On receipt of the copy of certificate of marriage solemnized on 13.03.1975 between you and Late Narayan Murmu, an enquiry was ordered deputing Ch. S & W/GSD/Kharagpur in which it is revealed that Late Narayan Murmu had wife named Smt. Lakhi Murmu who was alive till 1978 as per her representation dt. 31.01.1978 to the Chief Mechanical Engineer, (WS)/S.E. Railway/Kharagpur complaining against Late Narayan Murmu that he was not taking care of family. When he was advised to submit his explanation by this office he (late Narayan Murmu) responded vide his application dt. 31.03.78 stating that he had divorced Smt. Lakhi Murmu following Tribal custom. Although he was advised to bring it to the court of law by the then Anchal Pradhan he did not do so nor he had informed the office, as per records traced out after exhaustive searching. He also did not inform this office of your name as his wife through pass declaration (family declaration) as per procedure.

In view of the facts narrated above, it is observed that your claim of marriage to Late Narayan Murmu on 13.03.75 who had one wife (Smt. Lakhi Murmu) alive till 31.01.78. Hence your marriage if any with Late Narayan Murmu is void as per Govt. Rule, as per certificate of death issued by the Pradhan Dubra Gram Panchayet on 25.11.2000 Smt. Lakhi Murmu expired on 18.05.1972. This stands contradictory to the previous events because Smt. Lakhi Murmu was alive till 31.01.1978, at least as mentioned above. And you yourself also suppressed the fact of 1<sup>st</sup> marriage of late Narayan Murmu.

Further you have not produced proof of establishing your claim as legal wife of Sri Narayan Murmu prior to death of him except a letter presently submitted from Pradhan after 38 yrs. of your claimed marriage date which itself contradictory/inconsistent with the statements earlier by the Smt. Lakhi Murmu (1<sup>st</sup> wife) of late Sri Narayan Murmu, and earlier statements of Pradhan prior to death of Narayan Murmu.

As per this office records only Smt. Lakhi Murmu was declared as wife by Late Narayan Murmu and nowhere such as in pass declaration, medical cards, settlement papers etc. your name was declared as legal wife by Late Narayan Murmu, due to which pension was sanctioned for Late Narayan Murmu only till his death. As per representation of the first wife Smt. Lakhi Murmu, that she was not taken care by her husband Narayan Murmu due to delivery of the child and that owning the above contradictory statements about Smt. Lakhi Murmu, this office is unable to confirm her death and also existence of first wife progeny.

Pursuant to the court's order dtd. 21.03.2013 on WPCT No. 100 of 2013 and into consideration of all the above fact I, the undersigned being the Competent Authority to the case arrived at a decision that you are not legally married wife of late Narayan Murmu, Ex-Khalasi of this office, and as such, you are not entitled to family pension against the death of Late Narayan Murmu.

This is for your information.

The court's order dtd. 21.03.2013 is implemented as above.

(Dy. Chief Materials Manager)  
S. E. Railway, Kharagpur

5. The above order of the respondent authorities clearly shows that Smt. Thakurmani Murmu has failed to establish that she is the legal wife of ex-employee, late Narayan Murmu and hence entitled to family pension. Hence she is not entitled to get family pension and there is no merit in this case. The case deserves to be dismissed.

6. Hence the case is dismissed. No costs.

Jaya Das Gupta)  
Member (A)

(Ashok Kumar Patnaik)  
Member (J)

pd