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OA/350/01080/2015

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH, K O L K A T A

REGN. NO.: OA/350/01080/2015

[KOLKATA, this, the 7th Day of MARCH, 2016] ul.

C O R A M

HON'BLE MRS. URMITA DATTA (SEN), MEMBER [JUDL.]

Smt. Soma Das, widow of Late Nilkanta Das, residing at village – Basina [School Para], Post Office-Bishnupur, Police Station-Rajarhat, District-24 Parganas [North], West Bengal-700 135.APPLICANT.
By Advocate :- Ms. D.Bhattacharya.

Vs.

1. Union of India, service through the Secretary, Ministry of Defence, New Delhi-110 011.
2. The General Manager, Indian Ordnance Factory, Ministry of Defence, Gun & Shell Factory, Cossipore, Kolkata-700 002.
3. Assistant Works Manager, Indian Ordnance Factory, Ministry of Defence, Gun & Shell Factory, Cossipore, Kolkata-700 002.
4. Works Manager [Administration], Indian Ordnance Factories, Ministry of Defence, Gun & Shell Factory, Cossipore, Kolkata-700 002.RESPONDENTS.

By Advocate :- Mr. S.Banerjee.

O R D E R

Urmita Datta (Sen), Member [Judl.] :- This OA has been filed by the applicant praying for following relief :-

"8[a] For an order directing the Respondent no.2 herein to restrain herself from taking any step or steps pursuant to the impugned letter dated 11.05.2013 being Annexure A/10 herein and/or cancelled and/or withdrawn forthwith;

[b] For an order directing the Respondents herein consider and dispose of the petitions of the applicant as also the demand of justice made before them, more particularly the Annexure-A/13 herein immediately.

[c] For an order directing the respondent authorities their men, agents and each one of them to release the Family Pension in favour of the applicant forthwith; together with interest on delayed payment of the same.

[d] To pass such other or further order or orders and/or direction or directions as Your Lordships may deem fit and proper."

2. The case of the applicant, in short, is as follows :-

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2.1 As per the applicant, she married with late Nilkanta Das, ex-Mechinist [Skilled] bearing T.No.1301-Fuze, Gun & Shell Factory, Cossipore, on 20.03.1990. At the material point of time, there was no compulsory requirement to register the marriage, which would be evident from the affidavit sworn before the learned Judicial Magistrate, 1st Class at Barasat on 14.11.2005 [Annexure-A/1].

2.2 According to the applicant, her husband, Nilkanta Das, retired from service on superannuation on 30.11.1990 [Annexure-A/2]. He died on 19.09.1999 leaving behind his sons, daughter and the applicant as widow.

2.3 As per The applicant, she applied for the family pension before the respondent authorities on 22.02.2007. However, the respondent no.3 vide his letter dated 27.04.2007[Annexure-A/5] asked the applicant to produce succession certificate from the competent court of law for the purpose of consideration of family pension. The applicant filed an application for succession certificate and being Misc. Case No. 125 of 2008 before the Id. District Judge, Barasat on 17.04.2008 [Annexure-A/6].

2.4 During the pendency of the application for succession certificate, respondents no.3 & 4 issued two letters dated 19.01.2008 and 30.06.2008 [Annexure-A/7] requesting her to submit succession certificate. At last, the applicant obtained succession certificate on 22.11.2011 and produced the same before the respondent concerned on 16.01.2012 [Annexure-A/8 series].

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2.5 Thereafter, the applicant once again made a representation before the Dy.General Manager, Gun & Shell Factory on 26.09.2012 [Annexure-A/9] praying for release of family pension. However, the Addl. General Manager [respondent no.2] vide his letter dated 11.05.2013 intimated that the claim of the applicant for family pension is not valid as per Rule 53 of the CCS [Pension] Rules as for sanction of family pension, the employee has ^{to} ~~not~~ endorse her spouse's name during service period or even after retirement, the employee has to intimate to Head of Office about the marriage with valid marriage document like marriage certificate [Anenxure-A/10].

Being aggrieved, the applicant has filed the instant OA.

3. As per the applicant, Smt. Rina Das @ Putty Auddy and late Nilkanta Das had filed a joint petition for mutual consent divorce on 25.08.1989 and the court of learned 8th Addl. District Judge, Alipore, vide his order dated 19.09.1989 decreed the divorce on mutual consent [Annexure-A/11]. As there was no provision of marriage registration at that point of time, the applicant cannot produce any marriage certificate though marriage was solemnized as per Hindu rites. However, she has enclosed certificate issued by the Rajarhat Bishnupur II Gram Panchayat on 18.06.2013 as well as voters ID card [Annexure-A/12]. Again, she submitted one demand of justice letter through her advocate on 13.06.2015 [Annexure-A/13].

4. The respondents have filed their written statement, wherein they have stated that late Nilkanta Das superannuated from service on 30.11.1990 and submitted his pension paper on 20.07.1990 along

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with divorce decree by mutual consent, obtained from the Additional District Judge, 8th Court, Alipore, from his wife Smt. Rina Das [Annexure-R/1]. The deceased employee had submitted his nomination for DCRG by nominating his son Tarun Kanta Das and alternatively, daughter Papiya Das, along with family details mentioning the name of above two children in Form No.3 [Annexure-R/2].

5. The respondents have further stated that the deceased employee was granted pension vide PPO No. 20.11.1990 without mentioning any name as wife for family pension. However, after lapse of about five years, the applicant's advocate Shri Prabir Kumar Bag intimated vide his letter dated 28.02.2005 that Nilkanta Das died on 19.09.1999 and Smt. Soma Das is legally married wife of the said employee without any valid document to substantiate the marriage proof [Annexure-R/4]. Further, the applicant applied for family pension vide letter dated 20.04.2005 enclosing some documents [other than marriage proof], wherein she also enclosed birth certificate of her son Sanjib Kanta Das [date of birth 30.11.1977] issued by the Rajarhat Bishnupur- II Gram Panchayat, vide birth certificate No. 972, dated 29.03.2005 [Annexure-R/6] issued by the Pradhan, Rajar Hat, Bishnupur-2. However, the said letter was subsequently withdrawn vide affidavit dated 14.11.2005 [Annexure-R/7], wherein it was mentioned that actually Shri Sanjib Kanta Das is the son of late Sanjay Kanta Das, elder brother of late Nil Kanta Das, but as he was residing with the family of Nilkanta Das since

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childhood, everybody knows him as son of Nilkanta Das . Thereafter, another advocate letter in the name of Shri Binod Prasad, dated 12.07.2005[Annexure-R/8] was received praying for grant of family pension being a legally married wife and claiming that the marriage was solemnized on 20.03.1990 after divorce with first wife without any document of marriage in support of her claim. It was also intimated that inadvertently, the name of Nilkanta Das was mentioned as father of Shri Sanjib Das and in support of the same one admit card bearing No. 0143-123 of WBBSE was enclosed to identify as father's name as Sanjoy Kanta Das [Annexure-R/9]. Since no documentary evidence was produced by the applicant in favour of her claim, SP North 24 Pargana was directed to enquire into the matter who, in turn, filed report dated 18.04.2006 intimating that the family includes the applicant, Shri Tarun Das, son and Ms. Papia Shaw [married daughter], but there is no mention about the date of 2nd marriage in respect of the applicant [Annexure-R/11]. Again, the applicant vide her application dated 28.05.2007 stated that there was no such provision of law to seek succession certificate for granting family pension. However, the applicant failed to file any documents showing the date of marriage. Moreover, as per Rule 53 of the CCS [Pension] Rules, as well as letter of GSF Authority dated 11.05.2013, wherein it has been clearly stipulated that as per Rule 53, for sanction of family pension, the employee has to endorse his spouse's name during service period or even after retirement, the employee has to intimate to Head of Office about the marriage with

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valid marriage certificate, and in absence of any document to substantiate date of marriage [2nd marriage] the claim of family pension as second wife is not valid as per rule [Annexure-R/17]. The respondents have, therefore, prayed for dismissal of the OA.

6. The applicant has filed his rejoinder and, more or less, reiterated the same submissions as made in the OA and has also enclosed some documents in support of his claim.

7. I have heard both the parties and perused the records. It is noted that the applicant has basically claimed for family pension on the basis of certificate issued by the Pradhan of Gram Panchayat, Voter ID Card, succession certificate, etc. However, according to the respondents as per Rule 53 of CCS [Pension] Rules, 1972, the employee has to endorse his/her spouse's name during service period or even after retirement the employee has to intimate the Head of Office about the marriage with valid marriage document as the second marriage is not permissible during the life time of the first wife. Moreover, it is further observed that the ex-employee concerned never declared the name of the applicant as his wife. Further, he retired in the year 30.11.1990 and received the retiral benefits as well as the pension and thereafter he died 19.09.1999 but during that period he never endorsed the name of the applicant as his wife. The applicant after a long gap of five years, in the year 2005, for the first time came before the respondents to claim for family pension. Moreover, on the earlier occasion she submitted one application claiming Sanjib Kanta Das as her son whose date of birth

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is 30.11.1977, whereas the divorce between the ex-employee with his first wife was decreed in the year 19.09.1989. Later on, she changed her stand stating that Shri Sanjib Kanta Das was the son of elder brother of the ex-employee and she got married with the employee in the year 1990 without any proof of such marriage.

8. In the above facts and circumstances, which gives rise to suspicion about the authenticity of the claim of the applicant being wife of the ex-employee, in my opinion, the respondents have rightly rejected the claim of the applicant. Accordingly, the OA is dismissed with no order as to costs.

[Urmita Datta (Sen)]
Member [Judl.]

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