

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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30/09/15

No. O.A. 357 of 2012

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. R. Bandyopadhyay, Administrative Member

Munni Das,
Wife of Late Kabutar Das,
Resides at Village - Manaspur Basti,
Post Office - Bandel,
Police Station - Chinsura,
District - Hooghly

.. Applicant

- V E R S U S -

1. Union of India,
Service through the Secretary,
Ministry of Railway,
Railway Bhawan,
New Delhi - 110 001.
2. General Manager,
Eastern Railway,
Fairlie Place,
Calcutta - 700 001.
3. Divisional Railway Manager,
Eastern Railway, Howrah.
4. Senior Divisional Finance Manager,
Eastern Railway, Howrah.
5. Senior Divisional Personnel Officer,
Eastern Railway, Howrah.
6. Santi Das,
Daughter of Late Kabutar Das and
Wife of Sri Tarakeshwar Das,
Presently resides at No. 1,
Sonatuli Lane, Chak Bazar,
District - Hooghly.

.. Respondents

For the Applicant : Mr. S. Chattopadhyay, Counsel

For the Respondents : Mr. M.K. Bandyopadhyay, Counsel

Order dated: 30.9.15

O R D E R

Per Ms. Bidisha Banerjee, Judicial Member:

Ld. Counsels for both sides are present and heard.

2. The Railway Services (Pension) Rules, 1993 is explicit that where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares.

3. The applicant who claims to be the second wife of the deceased employee, Late Kabutar Das, Ex-Khalasi Helper under SE (W)/BDC/Howrah Division, has filed this O.A. seeking the following reliefs:-

“8.(i) An order directing the respondent authorities to grant full family pension in favour of the present applicant in view of death of her husband;

(ii) An order directing the respondent authorities to make suitable modification and/or correction to the pension payment order to grant full family pension in favour of the present applicant in view of death of her husband;

(iii) An order directing the authority to rescind or cancel or modify the order dated 18th February, 2009 issued by the respondent authority;

(iv) An order directing the respondent authorities not to disburse any amount on account family pension to the respondent No. 6 in view of her marriage as held on 7th December, 2010.

(v) Any other order or orders as to this Hon'ble Tribunal may deem fit and proper.”

3. Per contra, the respondents have submitted that during the service period, late Kabutar Das has married one Smt. Santoshi Das. As per the office record, Miss Santi Kumari is his only daughter. Sri Kabutar Das died on 22.7.1996. After the death of Late Kabutar Das

one Mr. Narayan Das stated to be the elder brother of Late Kabutar Das submitted an application on 25.9.1996 for withholding payment of settlement dues. In his application he stated that there is no relation between Kabutar Das and Munni Das as husband and wife. It was also seen that a Misc. Case No. 141 of 1995 filed by one Smt. Munni Rabi Das before Chief Judicial Magistrate, Burdwan, for maintenance was dropped vide order dated 12.8.1996. Letters were issued to Smt. Munni Das and Miss Santi Kumari for the purpose of the settlement dues. After completion of all the formalities, settlement dues have been cleared in favour of Miss Santi Kumari as a daughter of first wife and in favour of both minor sons, received by Smt. Munni Das as a natural guardian. Smt. Munni Das has filed the O.A. No. 357 of 2012 for claiming the full family pension in favour of her as Santi Kumari (the daughter of first wife) got married. But neither Smt. Santi Kumari nor Munni Das could submit any documents to prove it.

The respondents have emphatically declared that the marriage between Munni Das and Kabutar Das was solemnised when Kabutar Das had a wife Smt. Santoshi Das. As Kabutar Das belonged to Hindu Community and as per Hindu Marriage Act a person having wife could not contract a second marriage without taking liberty from the Competent Court and as no such judicial order was available to the Railway Administration, the second marriage has been treated as void and the wife under void marriage is not entitled for any service facilities. It is submitted that one letter No. ENGG/280/96, dated 3rd March, 2005 was sent for intimation.

4. The applicant in her rejoinder has submitted that the application under Section 125 of the Code of Criminal Procedure for

the purpose of maintenance was dropped on the death of her husband.

She has further asserted that the two sons were born on 12th January, 1995 and 15th February, 1996. She was married to Kabutar Das on 12th July, 1989, after the death of Santoshi Das on 9th August, 1987, the first wife of her husband and the two sons were born out of their wedlock subsequent to the death of the first wife of her deceased husband. While determination of the pension, she was illegally excluded for consideration of the family pension as the wife of my deceased husband Kabutar Das. In support she has relied upon the death certificate of Santoshi Das issued on 27.1.2006 manifesting the date of death as 9.8.87 (i.e. prior to date of marriage of Munni Das) (Annexure A-1) and sick memo issued on 30.7.1993 (Annexure A-2) where "Smt. Mooney" is shown as "wife". That apart we find the P.P.O. (Annexure A-4) which reads as under:-

"Until further Notice, and on the expiration of every month be pleased to pay Smt. Munni Das, 2nd wife of Late Kabutar Das on behalf of her minor son, Sri Arun Das, the pension as set out in part-II of this order. Family pension as set out in Part-III of this order (Inapplicable clause to be deleted) plus the amount of dearness relief as admissible from time to time thereon after due identification of the pensioner/family pensioner. The payment should commence from 23.7.1996 the Income Tax, where deductible, should be deducted at source."

She has made a prayer to the DRM, Eastern Railway, Howrah stating that:

"..... Shanti Das already married Sri Tarakeshwar Das on 14.12.2010. A copy of the invitation card is attached. Thus, Shanti is no more eligible for pension and I am now eligible for full pension w.e.f. 15.12.2010 in terms of para 7(a) under Rule-54 of Family Pension, under CCS (Pension) Rules.

So, kindly grant me full pension accordingly."

5. We have heard Ld. Counsel for the parties and perused the documents available on record.

6. As apparently there is no dispute in regard to the status of the applicant as second wife, we direct the DRM or any other competent authority to pass appropriate orders within three months from the date of communication of this order duly consulting the official records and the documents as submitted by the applicant, as referred to hereinabove and in accordance with Railway Rules.

7. The O.A. is, accordingly, disposed of. No costs.

(R. Bandyopadhyay)
MEMBER(A)

(Bidisha Banerjee)
MEMBER(J)

SP