

(2) CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1941/2003

New Delhi, this the 3rd day of August, 2004

Hon'ble Shri S.K. Naik, Member(A)

Harsh Rani
w/o late Ravi Dutt Sharma
125/15, Sector I
Pushp Vihar, New Delhi

.. Applicant

(Shri Sanjay K. Das, Advocate)

versus

Union of India, through

1. Director General(Works)
CPWD, Nirman Bhavan, New Delhi
2. Superintending Engineer(Electricals)
PWD Electrical Circle-I, NCT of Delhi
Y Shaped Building, ITO, New Delhi
3. Executive Engineer
PWD Electrical Division-I
Nctd, Sunlight Building
Asaf Ali Road, New Delhi

.. Respondents

(Shri Ajesh Luthra, Advocate)

ORDER

The applicant Smt. Harsh Rani claims that she got married to late Shri Ravi Dutt Sharma according to the Hindu Rituals and Rites on 28.5.1995 at Hoshiarpur, Punjab and thereafter they shifted to Delhi and started living in the Government accommodation allotted to the deceased. According to the applicant, the deceased informed the competent authority on 19.12.95 bringing to his notice his marriage to her and also requested to bring on record the name of the applicant. From this wedlock she got a daughter named Radhika born on 10.3.1998. Her late husband, while working as Motor Lorry Driver in the 3rd respondent's office, was placed under suspension on the basis of contemplation of departmental/disciplinary action against him w.e.f. 2.12.91. He however died on 26.8.1998 leaving behind the

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applicant and the only daughter. Thereafter, applicant on 9.12.1999 made a representation to the respondents to grant all the pensionary benefits as admissible to her deceased husband in her favour.

2. However, in the meanwhile, the mother-in-law of the applicant filed a suit No.11/99 against the applicant and the respondent-department seeking permanent injunction against the applicant from claiming the pensionary benefits and also sought a decree against the department for grant of pensionary benefits in her favour on the ground that at the time of death, her son was unmarried and she declined to accept the applicant as legally married wife of her son. She also sought for grant of interim injunction against the applicant from claiming any pensionary benefits from the respondent-department but the Trial Court declined to grant it and rejected the same.

3. Applicant further claims that vide order dated 11.2.2003 respondent-department decided to sanction Rs.30,000 in her favour on account of insurance money under CGEIS. However, despite her having sent the receipt for this amount, she has not received the same so far. Respondent No.2, vide its order dated 26.3.2003 revoked the suspension of the deceased and regularised the suspension period from 2.12.91 to 26.8.98 and directed the said period to be treated as on duty for all purpose in terms of FR54(B). Applicant also served legal notice on the respondent-department on 12.5.2003 for release of pensionary benefits, which has not yielded any result. Hence the present application, seeking a direction to the respondents to release the dues to her.

Yours

4. Respondents have contested the case and have stated in their reply that as per service record Smt. Harsh Rani, applicant herein is the wife of the deceased Govt. servant. However, Smt. Shakuntala Devi, mother of late Ravi Dutt Sharma filed suit No.11/99 before the Court of Sr. Civil Judge, Tis Hazari claiming that her son remained unmarried throughout his life and she is the only legal heir of her son entitled to claim the service benefits of her deceased son. She further stated in the suit that Smt. Harsh Rani was married to one Shri Kamal Kumar, s/o late Shri Bansi Lal and not to her son. The said Court vide its order dated 17.12.2002 rejected the petition for interim injunction on the ground that there was nothing on record to suggest at that stage that the deceased was unmarried. The main suit is still pending and undecided. In view of this position, the respondent-department is unable to make any payment to the applicant.

5. I have heard the learned counsel for the parties and perused the records.

6. Counsel for the applicant vehemently argued that when the Trial Court has dismissed the prayer for interim injunction by the mother of the deceased on the ground that there was nothing on record to suggest at that stage that the deceased was unmarried and the respondent-department has not disputed the fact that as per their service record the applicant is the wife of the deceased, pendency of the suit before the Trial Court should not come in the way of settling her rightful dues. He has also brought to my notice the letter dated 26.12.98

True

written by the respondent-department addressed to Smt. Shakuntala Devi to the effect that late Shri Ravi Dutta Sharma was married in 8/95 with Smt. Harsh Rani vide his letter dated 19.12.1995, that he had also given her name in the details of family as well as in the CGHS card and that Smt. Harsh Rani is the only legal heir of the deceased and Smt. Shakuntala Devi's request as legal heir cannot be accepted.

7. Applicant's counsel has further drawn my attention to the judicial pronouncement in *Lachhmi Devi. Vs. General Public* 2001(6) SLR 17 decided by the Punjab & Haryana Court wherein while holding that in the presence of the widow and children of the deceased employee, mother/father cannot ask for any family pension, the hon'ble High Court has ruled that mother of the deceased was not entitled to any share of the GPF, gratuity, leave encashment etc. A similar view has been held by the apex court in *Smt. Violet Issac Vs. UOI* (1991) 1 SCR 282. The counsel therefore argued that once the respondents have admitted that the deceased had duly informed his marriage with the applicant, whose name has been duly entered in the service book of the deceased and also included in the CGHS card, respondents have no reason to deny the applicant pensionary benefits accruing to the deceased employee.

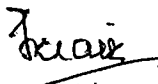
8. When put to question as to whether the deceased had filed any nomination while in service in favour of the applicant, respondents' counsel has not been able to throw any light on this aspect. The respondents are silent about this in their reply. In other words, when it is not in dispute that name of applicant is available

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in the service record of the deceased as his legally wedded wife and her name with that of daughter are available in the family details furnished by the deceased, I find no reason why the pensionary benefits should be denied to the applicant. I am fortified in this proposition in view of the decisions cited above. Therefore mere pendency of the suit filed by the mother-in-law of the applicant, particularly when her prayer for interim injunction has been dismissed by the Trial Court, cannot be a ground to deny the claim of the applicant.

9. Again when the respondent-department has issued sanction for payment of insurance amount of Rs.30,000/- as back as 11.2.2003 they should not hold it back on the ground of pendency of the civil suit filed by Smt. Shakuntala Devi, particularly when no stay order has been passed in her favour.

10. Thus, viewed from any angle, the action of the respondents in withholding payment of pensionary benefits to the poor widow is not justified. Resultantly, this OA is allowed. Respondents are directed to release all the dues to the applicant within a period of two months from the date of receipt of a copy of this order. No costs.


(S.K. Naik)
Member(A)

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