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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/01062/2018**

**Wednesday this the 20<sup>th</sup> day of November, 2019**

**C O R A M :**

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER**

Shri Gopalakrishna Pillai,  
Aged 64 years,  
S/o.Chellappan Pillai,  
Ex-Gang Mate under  
SSE/PWay/PUU.  
Residing at Meenu Bhavan,  
Kunnicode P.O.,  
Kollam District. ....Applicant

**(By Advocate Mr.K.Shaj)**

**v e r s u s**

1. Union of India, represented by the Secretary,  
Government of India, Ministry of Railways,  
Rail Bhavan, New Delhi – 110 011.
2. The Divisional Railway Manager,  
Railway Divisional Office,  
Southern Railway, Madurai,  
Tamil Nadu – 625 001.
3. The Divisional Personnel Officer/Co-ordination,  
Office of the Divisional Personnel Officer/  
Co-ordination, Southern Railway,  
Madurai, Tamil Nadu – 625 001.
4. The Assistant Personal Officer,  
Divisional Office, Personnel Branch,  
Southern Railway, Madurai,  
Tamil Nadu – 625 001. ....Respondents

**(By Advocate Mrs.Mini.R.Menon)**

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This application having been heard on 6<sup>th</sup> November, 2019, the Tribunal on 20<sup>th</sup> November, 2019 delivered the following :

**ORDER**

O.A.No.180/1062/2018 is filed by Shri.Gopalakrishna Pillai, Ex-Gang Mate, Southern Railway against the denial of family pension to his wife one Prasanna Kumari. He seeks the following reliefs :

1. To call for the records leading to the passing of Annexure A-5 and to set aside the same.
2. To direct the respondents to incorporate the name of the second wife of the applicant in the pension book of the applicant for pensionary benefits.
3. To direct the respondents to pay the applicant the commutation amount calculated at 40% of the pension payable to him within such period as directed by this Hon'ble Tribunal.
4. Issue such other further reliefs as are necessary in the interests of justice.

2. The applicant while working as Gang Mate under the 2<sup>nd</sup> respondent was compulsorily retired on 31.7.2014 as he had contracted a second marriage with one Prasanna Kumari while he was married to one Padmavathi Amma since 19.4.1979. Subsequent to the applicant being compulsorily retired, he had obtained a divorce from the aforesaid Padmavathi Amma on 31.10.2015 from the Family Court, Kottarakara (Annexure A-1). After annulment of the said marriage, the applicant married Prasanna Kumari under the provisions of the Special Marriage Act, 1954 on 22.1.2016, a copy of the Certificate of Marriage is at Annexure A-2.

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3. The respondents refused the request of the applicant to incorporate the name of his second wife (Prasanna Kumari) as a beneficiary of his family pension. He claims to have submitted a representation on 1.3.2016 to the 3<sup>rd</sup> respondent in pursuit of the same request. He filed O.A.No.552/2017 before this Tribunal and obtained an order dated 12.7.2017 directing the 4<sup>th</sup> respondent to dispose of the said representation (Annexure A-3).

4. On receipt of the orders of this Tribunal the 3<sup>rd</sup> respondent disposed of the representation vide order dated 16.8.2017 stating that the request for family pension in favour of the second wife (Prasanna Kumari) is not agreed to as the applicant had been punished with compulsory retirement for the illegal marriage that he had entered into. Further the payment of commuted value of pension was also revised on the ground that he had not indicated the percentage to be commuted as required in the Rules. A copy of the order dated 16.8.2017 issued by the 3<sup>rd</sup> respondent is at Annexure A-5. The applicant in compliance with the orders of the 3<sup>rd</sup> respondent submitted the aforesaid Form No.2 and re-submitted his application for commutation. But till date the respondents have not paid his commuted amount.

5. The respondents have filed a reply statement in which the eligibility of the second wife for being made the beneficiary of the family pension has been questioned. It is maintained that the applicant was guilty of violating Rule 21(2) of the Railway Services Conduct Rules 1966 which expressly

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forbade a Railway servant from entering into another marriage when he is already married. As can be seen, the applicant has stated that he has divorced his first wife on 31.10.2015 and married Prasanna Kumari on 22.1.2016. In Form No.6 for processing family pension, a copy of which is at Annexure R-1, he had not declared any name of his family members.

6. In so far as his claim for assigning percentage of his commuted value of pension, it is stated that the applicant is required to present himself before the appropriate medical authority and his claim will be duly processed and dealt with as and when the applicant chooses to do so.

7. Shri.K.Shaj, learned counsel appeared on behalf of the applicant and Smt.Mini.R.Menon, learned counsel appeared on behalf of the respondents. All pleadings and documents were examined. The applicant, an Ex-Gang Mate, had been compulsorily retired for the reason that he had contracted a second marriage while his first marriage was in force. The contention of the applicant is that he married second time only after divorcing his first wife, which he did, after he had left the respondent organization. We have no knowledge about the proceedings which followed and which resulted in the punishment of compulsory retirement imposed on him. Apparently the respondents after due inquiry came to the conclusion that he was either married or cohabiting with another woman while being married to his original wife. As quoted in the reply statement in **Rameswari Devi v. State of**

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**Bihar & Ors.** the Apex Court has observed that marriage can be presumed if cohabitation is proved and that the second wife is not entitled to any benefits out of a void marriage. In Form No.6 which was submitted by the applicant no beneficiary or family members are seen included (Annexure R-1). In so far as his claim for commutation of pension, he is eligible to commute a fraction of his pension subject to the limit prescribed in Rule 6 after he has been declared medically fit for the purpose. It is submitted by the learned counsel for the respondents that commutation of pension is under process and will be completed shortly subject to the applicant cooperating with the procedural requirements.

8. This Tribunal is of the view that the O.A can be disposed of by directing the Respondent Nos.3 and 4 that the applicant's request for commuting a fraction of pension is to be duly dealt with and disposed of within a period of 60 days from the date of receipt of a copy of this order. Ordered accordingly. In so far as his request for including his present wife's name as beneficiary of family pension is concerned, the request is rejected.

9. The O.A is disposed of accordingly. No costs.

(Dated this the 20<sup>th</sup> day of November 2019)

**(E.K.BHARAT BHUSHAN)  
ADMINISTRATIVE MEMBER**

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**List of Annexures in O.A. No.180/01062/2018**

- 1. Annexure A1:** Copy of order dated 31/10/2015 in O.P (HMA) No.45/2015 of the Family Court Kottarakara.
- 2. Annexure A2:** Copy of the Certificate of Marriage dated 22/01/2016 issued by the Marriage Officer, Punalur.
- 3. Annexure A3:** Copy of the order dated 12/07/2017 in OA No.552/2017 of this Hon'ble Tribunal.
- 4. Annexure A4:** Copy of the letter dated 22/07/2017 submitted by the applicant to the fourth respondent.
- 5. Annexure A5:** Copy of order dated 16/08/2017 issued by the third respondent.
- 6. Annexure R1:** Copy of the Form No.6 submitted by the applicant.
- 7. Annexure R2:** Copy of letters dated 18.07.2018, 17.09.2018 and 18.01.2019.
- 8. Annexure R3:** Copy of letter dated 29.01.2019 of Additional Chief Medical Superintendent.

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