

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

**Original Application No.20/1089/2018
M.A.No.215/2019**

Date of Order: 01.08.2019

Between

Mrs. Cherukuri (Pasupuleti Sravanthi)
W/o Late Ch. Lakshminarayana, Gr. C
D/o Pasupuleti Sambasiva Rao
Aged 29 years, Occ. Housewife
R/o H.No.11-150, Inkollu Road
Parchuru Village & Mandal
Prakasham District, A.P., PIN – 523169.

.. Applicant

AND

1. Union of India, Rep. by its Secretary
Ministry of Railways, New Delhi.
2. The Divisional Manager
Vijayawada Railway Division
South Central Railway, Vijayawada
Krishna District, A.P.
3. Senior Personnel Officer
Vijayawada Railway Division
South Central Railway, Vijayawada
Krishna District, A.P.
4. Mr. Cherukuri Raghavaiah, S/o Lakshmi Narasimham
Age: 65 years, Occ: Agriculture
H.No.6-407-1, Sopirala Village
Chinnaganjam Post & Mandal
Prakasham District, A.P. PIN-523135.
5. Mrs. Cherukuri Rajamma, W/o Ch. Raghavaiah
Age: 57 years, Occ: Housewife
H.No.6-407-1, Sopirala Village
Chinnaganjam Post & Mandal
Prakasham District, A.P. PIN-523135.

.. Respondents

Counsel for the Applicant ... Mr. P. Venkata Subba Rao
Counsel for the Respondents: Mr.Bhim Singh, proxy of Mr.V.V.N.Narasimham, SC for Railways.

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. The OA has been filed for not releasing the death benefits like pension/pensionary benefits, and for not providing compassionate appointment.

3. Brief facts of the case are that the applicant was married to Shri Cherukuri Lakshminarayana on 26.08.2007. The said Shri Cherukuri Lakshminarayana has worked for the respondents organization and expired on 04.07.2017, leaving behind two daughters and the applicant (i.e. wife). During the life time of the deceased employee, there were marital disputes, which led to ill treatment of the applicant and her children. The ex employee was drunkard and used to torture the applicant both physically and mentally. Applicant is well qualified with M.A. and B.Ed. qualifications. These qualifications were obtained after the marriage with ex employee. As the ex employee was not taking care of her children, she filed a case for maintenance vide M.C.No.12 of 2015 in the competent Court. The case was dismissed on 31.07.2017 due to death of the ex employee on 04.07.2017. Consequent to death of the ex employee, applicant represented for release of pension/pensionary benefits and for providing compassionate appointment. Applicant's request was rejected on the ground that her name was not entered in the service record. Respondents also directed the applicant to obtain a

legal heir certificate from the competent Court. Aggrieved over the same, OA has been filed.

4. Contentions of the applicant are that the late employee, while filing the counter reply in M.C.No.12 of 2015, has admitted that the applicant was his wife. Applicant also produced wedding card/birth certificates, etc as proof of being the wife of the late employee. Applicant is not earning any income and therefore she is finding it difficult to take care of her children. In the absence of any family pension being granted by the respondents, the quality of life she is living is deplorable.

5. Respondents, in their reply statement, have stated that the OA has to be dismissed for non-joinder of necessary parties, i.e., the General Manager, South Central Railway who is the competent authority to represent Union of India. As he was not made a party to the proceedings, the OA is liable for dismissal for non-joinder of proper party. Besides the preliminary objection, respondents intimate that the ex employee committed suicide and died on 04.07.2017. The deceased employee did not declare the applicant and her children in the family member declaration slip/form submitted by him, from time to time, for availing privilege passes/PTOs. Applicant did not produce a marriage certificate issued by a competent Court of law that she is the wife of the deceased and, therefore, she cannot be treated as the wife of the

deceased employee. The 4th and 5th respondents, who are the father and mother of the deceased employee, have requested the official respondents to arrange for payment of death benefits of the late employee to the children of the applicant. However, applicant has claimed pension and pensionary benefits to herself. Consequent to the request of the 4th and 5th respondents and the applicant, the official respondents were not able to come to a conclusion as to who are the correct legal heirs of the deceased employee. Thus, they advised claimants to approach the competent Court of law for obtaining a declaratory decree, and after submission of the same, the issue can be resolved, is the stand of the respondents.

6. Heard both the counsel and perused the pleadings on record.

7. (I) As seen from the records, it is an undisputed fact that the late employee has not indicated the name of the family members in the declaration for the passes and PTOs for family members, as per Annexure R-3. Even in Annexure R-4, details of the family members have not been recorded. A perusal of Annexure R-5, which is about declaration of family members and dependent relatives for issue of passes/PTOs, at Column (serial) No.14, the word married was initially ticked, later a remark "unmarried" was written. Based on the records, since the name of the applicant has not been recorded, respondents,

have taken the stand that the applicant is not the eligible legal heir for release of pension and pensionary benefits.

(II) In contrast, Annexure R2, i.e., declaration for the passes and PTOs for family members dependents for the year 2006, does indicate that the ex employee is married. Further, the Welfare Inspector, who was deputed to investigate the issue, has submitted a report dated 19.07.2017 (Annexure R-8), wherein he has stated as under:

“....Late Sri.Ch.Lakshmi Narayana was married to Pasupuleti Sravanthi D/o of Smabasiva Rao of Purchur village and mandal, Prakasam District in the year 2007 and both are living separately from 2010 onwards due to family disputes, the deceased got addicted to alcohol.....

2. The deceased didn't want to mention his wife name in Railway records and avoided in including his family in his pass declarations due to severe family dispute.

3. I have observed that he is not paying any type of Maintenance grant to his family.”

This report, thus, makes it axiomatic that the applicant is the wife of the deceased employee. To support this averment, the letter written by the 4th Respondent (Father of the deceased employee) and 5th Respondent (Mother of the deceased employee) dated 05.09.2017 also states that their son got married the applicant (Ms. Sravanthi) in August, 2007. They had marital issues and went to the extent of filing a criminal case under Section 498-A as well as Maintenance Case No.12 of 2015. Consequently, a fair conclusion can be arrived that the applicant was married to the late employee. Further, a clinching evidence is the

declaration duly signed by the late employee and submitted to the respondents in regard to '***declaration for the benefit for Railway Medical Attendance Identity Card for Family and Dependent members use***'. In the said form, the late employee has declared that the applicant is the Wife and Ch. Ruthvika as his Daughter, which was also witnessed by two colleagues of the deceased on 29.9.2014. The respondents did submit the original service register and there too the name of the applicant was not entered. The reason being marital disputes. Railway Board's letter No.2011/F(E)III/1(1)9 dated 23.9.2013, stipulates that for the purpose of Rules 71, 73, 74 'family', in relation to railway servant means wife or wives, including judicially separated wife or wives in the case of a male railway servant.

(III) Under this clause, the applicant has filed a Maintenance Case No.12 of 2015 against the late employee and it got abated due to the death of the late employee. In the counter reply filed by the late employee in the said M.C. No.12 of 2015, he has admitted that the applicant is the wife. Therefore, it has come on record of the Court, that the husband of the applicant is the deceased employee and there can be better evidence for the respondents to consider her request for pension and pensionary. Further, 4th and 5th respondents have not denied that the applicant is not the wife of the late employee but for their own reasons they desired that the death benefits should be granted to

children of the applicant, after they become majors. The respondents are assuming that there is a rival claim, in fact, it is not so from the pleadings of this case. The only concern of the grandparents (i.e., Respondents No.4 and 5) was that some of the benefits may have to go to the grand children. The respondents as per the rule cited supra, have to grant pension and pensionary benefits to the legally wedded wife. The facts enumerated above, do facilitate a conclusion to the effect that applicant is the wife of the ex employee.

(IV) Thus, from the above, i.e., the Welfare Inspector's Report dated 19.7.2017, admission of the ex employee in the counter reply filed in the MC No.12 of 2015, the declaration of family members by the late employee in Railway Medical Attendance Identity Card, the 4th and 5th respondents' letter dated 5.9.2017 are abundant proof of the applicant being the wife of the deceased employee. Applicant has also submitted Wedding Card, Aadhaar Card of the children, Date of Birth certificate of the children (issued by a Municipal Authority), which demonstrate that the applicant is the wife of the deceased employee. Therefore, a reasonable conclusion can easily be drawn that the applicant is the legally wedded wife of the late employee, on perusal of the documentary evidence on record.

(V) Lastly, respondents have raised an objection that the General Manager has not been made a party. However, Union of India represented by its Secretary, Ministry of Railways, who is the overall incharge of the Department has been made, therefore, the objection for non-joinder of necessary party is untenable. Accordingly, MA No.215/2019 was already dismissed vide order dated 01.08.2019.

(VI) Before we part, it is also to be mentioned that the applicant has prayed for providing Compassionate Appointment. The applicant has struggled in her life, as is seen from the facts of the case. Despite the turbulence faced, applicant could do MA and B.Ed. She has two minor children to be taken care of. The respondents organization has a Scheme of providing compassionate appointment to the dependant family members of the deceased employee. Under the said Scheme, the request of the applicant for compassionate appointment deserves a closer look.

(VII) Hence, based on the above, the respondents are directed to consider as under:

a) to release family pension and pensionary benefits to the applicant from the date due.

b) The request of the applicant for compassionate appointment may be examined and decided as per the relevant rules of the respondents organization.

c) The time calendar to implement the direction is three months from the date of receipt of a copy of this order.

d) There shall be no order as to costs.

With the above directions, the OA is allowed.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 1st day of August, 2019

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