

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00847/2018**

Jabalpur, this Friday, the 06<sup>th</sup> day of December, 2019

**HON'BLE SHRI RAMESH SINGH T HAKUR, JUDICIAL MEMBER**

Smt. Vandana Choudhary, Aged about 22 yrs.  
Wd/o Late Shri Satish Choudhary, D/o Shri Prakash Choudhary,  
R/o-739, Pani Tanki Mohalla,  
Village-Bagaspur, Distt Narsinghpur **-Applicant**

**(By Advocate –Shri Anil Lala)**

**V e r s u s**

1. Union of India, through the Secretary,  
Ministry of Defense, South Block, New Delhi-110001

2. Deleted.

3. The Commanding Officer, Ministry of Defense,  
Aeronautical Quality Assurance Wing, (Armt)  
Khamaria, Jabalpur (MP)-482005

4. Addl. Controller of Defense Account (Factory)  
Accounts Office, Ordinance Factory,  
Khamaria, Jabalpur (MP)-482005 **-Respondents**

**(By Advocate –Shri S.K.Mishra)**

(Date of reserving the order:-15.11.2019)

**ORDER**

This Original Application has been filed against the inaction of the respondents whereby inspite of repeated requests the respondents neither made payment of service dues, nor her request for compassionate appointment adhered to, on the death of husband of the applicant.

2. The applicant has sought for the following relief in this

Original Application:-

**“8.Relief sought:**

(a) To issue suitable directions to the respondents to release the all service related dues of her deceased husband.

(b) To issue suitable directions for grant of compassionate appointment to the applicant due to crisis of survival occurred in her life on account of unfortunate death of her husband.

(c) To issue nay suitable directions to the respondent to grant the interest @ 18% over the arrears of due from the date of death of her husband till the payment is actually made.

(d) To issue any other suitable direction as the Hon’ble Court deems fit and proper in the facts and circumstances of the case.

(e) To award costs of this petition.”

3. The facts of the case are that the husband of the applicant Late Satish Choudhary was appointed under the establishment of the respondents on 17.06.2014 and was working on the post of Tradesmen (Skilled Gr.). The marriage of the applicant took place on 06.12.2015 as per Hindu rites and rituals and after marriage the name of the applicant was duly entered as nominee for all service related benefits. The copy of the service book evidencing the said fact is filed as Annexure A-1.

4. The husband of the applicant suffered cardiac arrest and unfortunately succumbed to death due to heart failure, death certificate evidencing the said fact is annexed as Annexure A-2.

The applicant was pregnant when her husband died, however

after the death of husband, the behavior of the in laws completely changed and they were not intending to keep the applicant with them and thus started torturing her day and night. She being all alone could not handle the immense mental trauma after the loss of her husband and change in behavior of in-laws, which resulted in pre-mature delivery of a dead-child. The medical documents is annexed as Annexure A-3. The applicant approached the respondents for disbursement of service dues of her husband in her favour and for grant of compassionate appointment being her only nominee in the service records. The representation is annexed as Annexure A-4.

5. The claim of the applicant was not settled, thus she knocked the doors of this Hon'ble Court, where from a positive direction was issued to decide her claim within 60 days with a reasoned and speaking order. The copy of the order is annexed as Annexure A-5. The aforesaid order has been forwarded by the respondent No.3 to the respondent No.4 for transferring the payment of dues of husband of the applicant, so that the same can be made to the applicant. A Copy of the correspondence dated 19.12.2018 is annexed as Annexure A-6.

6. On receipt of the aforesaid letter, the respondent No.4 raised the objection, alleging that the applicant is the second

wife of the deceased employee on the basis of some affidavit of mutual divorce found in the records and demanded divorce decree of the first wife from competent court. The copy of such letter dt. 07.03.2018 is annexed as Annexure A-7. The objection of the respondent No.4 was forwarded to the applicant by respondent No.3 vide letter dated 09.03.2018, with a direction to meet the objection raised by the office of respondent No.4. A copy of which is annexed as Annexure A-8. On receipt of said letter, the applicant immediately responded and contended that she is the only wife of the deceased employee due to which her husband nominated only her name in the service records during his life time and the service book nowhere reveals the name of any other wife and thus question of divorce decree from the first wife does not arise. A copy of letter dated 26.03.2018 is annexed as Annexure A-9.

7. The Respondent No.3 responding to aforesaid letter dated 26.03.2018, deliberately misinterpreted the language of the above letter and contended that the applicant is admitting herself to be the second wife again insisted upon producing the divorce decree of the deceased from the first wife. A copy of the letter dt. 29.03.2018 is annexed as Annexure A-10.

8. The respondents have filed the reply to the Original Application. It has been submitted by the replying respondents that Late Satish Choudhary was working under the respondents who died on 29.08.2017. As per service record available in the service book of the deceased employee, applicant's name is reflected as nominee. In family declaration, the deceased employee has declared Smt. Vandana Choudhary as his wife but the service book of deceased employee contains a mutual consent divorce documents dated 15.07.2013. The mutual consent divorce document dated 15.07.2013 shows that Late Satish Choudhary was married with Smt. Pratibha Choudhary as per Hindu rites and custom on 26.04.2012. They got divorce on mutual consent through document executed before notary on 15.07.2013. Copy of which is annexed as Annexure R-1.

9. After death of employee, the respondent No. 3 processed the case for grant of terminal benefits to Smt. Vandana Choudhary based on nomination available in service record. The local account office, OFK returned the case with observation that divorce document submitted by the deceased employee is not legal and valid as per Hindu Marriage Act, 1955. They asked for a legal divorce paper i.e. divorce decree granted by the competent court of law. The respondents asked the applicant to

produce succession certificate from the competent court of law to avoid any further legal complication in future. IT has been specifically submitted by the replying respondents that as per section 5 of Hindu Marriage Act, 1955 for a valid marriage neither party has a spouse living at the time of the marriage. Any marriage solemnized, whether before or after the commencement of the Act can only be dissolved by a decree of divorce in the manner provided under section 13 of the Hindu Marriage Act. That as per divorce document dated 15.07.2013, the applicant is the second wife and no divorce decree as per provision contained under section 13 of the Hindu Marriage Act. Divorce document dated 15.07.2013 cannot be considered as a valid divorce with previous wife. So the second marriage is void-ab-initio.

**10.** The applicant has filed the rejoinder to the reply filed by the respondents. It has been submitted by the applicant that the affidavit reflecting the mutual divorce with one Pratibha Choudhary is suspicious and seems to have been fabricated only to deny the claim of the applicant. It has been submitted by the applicant that the applicant was added as nominee in the capacity of the wife of deceased in the service record on 08.08.2017 and if the version of the respondent that the said

fabricated documents dated 15.07.2013 filed as Annexure R-1 existed in the service record is believed, then definitely the name of the applicant would not have been added as nominee at that juncture but the fact remains that the name of the applicant was added as nominee as on 08.08.2017 and on 29.08.2017 her husband died which clearly goes to show that Annexure R-1 is a forged document introduced in service record after the death of the deceased when the applicant filed her claim, to deliberately object the claim of the applicant. It has been specifically submitted by the applicant that preliminary objection based upon Annexure R-1 are misconceived and the said fabricated document is introduced. It has been specifically submitted by the applicant that the stand of the respondent is contrary to stand taken by the respondent No.3 in the correspondent dt. 08.11.2018 to respondent No.4, wherein the applicant is held to be the legal wife of late Satish Choudhary and further held entitled for all the claim of deceased Satish Choudhary, which was forwarded to respondent No.4 for disbursing her claims, the copy of such communication dt. 08.11.2018 is filed herewith as Annexure A-11.

**11.** So the applicant could not get her claim and the said mischief has been done by the officers of accounts department

on the instigation of father-in-law of applicant, who was also working in the account department and did not wanted that the applicant should not get any benefit from the department of her deceased husband.

**12.** Heard the learned counsel for the parties and perused the pleadings and the documents annexed therewith.

**13.** From the pleadings it is clear that Late Satish Choudhary was working under the respondents who died on 29.08.2017. As per service record available in the service book of the deceased employee, applicant's name is reflected as nominee. In family declaration the deceased employee has declared Smt. Vandana Choudhary as his wife. The only contention put forth by the respondents is that the mutual consent divorce document dated 15.07.2013 whereby Late Satish Choudhary was married with Smt. Pratibha Choudhary as per Hindu rites and custom on 26.04.2012 and the same was notarized on 15.07.2013 (Annexure R-1). It is admitted by the replying respondents that after the death of the deceased employee the respondent No.3 processed the case for grant of terminal benefits to Smt. Vandana choudhary based on nomination available in service record. The only question for determination before this Tribunal

is that whether the said document Annexure R-1 is valid in the eyes of law.

**14.** As per contention of the respondent department the divorce document submitted by the deceased employee is not legal and valid as per Hindu Marriage Act and the applicant was asked to produce succession certificate from the competent court of law to avoid any further legal complication in future.

**15.** On the other hand applicant has specifically submitted that the marriage of the applicant took place on 06.12.2015 as per Hindu rites and rituals and after marriage the name of the applicant was duly entered as nominee for all service related benefits. The copy of the service book evidencing the said fact is filed as Annexure A-1. In the rejoinder the applicant has specifically submitted that the applicant is the nominee in the capacity of wife of deceased in the service record on 08.08.2017 and Annexure R-1 is there with the respondent department, then the name of the applicant should not have been entered. Meaning thereby the applicant has specifically submitted that this act is mischievous particularly on the instigation of father-in-law of the applicant who was also working in the accounts department and did not wanted that the applicant should get any benefit from the department of her deceased husband.

**16.** It has been specifically submitted by the applicant in the Original Application that the applicant was pregnant, when her husband died, however after the death of husband the behavior of the in laws completely changed and they were not intending to keep the applicant with them and thus started torturing her day and night, she being all alone could not handle the immense mental trauma after the loss of her husband and change in behavior of in-laws which resulted in pre-mature delivery of a dead-child, the medical documents is annexed as Annexure A-3.

**17.** Looking to the facts and circumstances of the case the simple document has no validity in the eyes of law which is in the form of affidavit. In the instant case, as per record of the respondent department, the name of the applicant has appeared as nominee for family pension in Form-4 of the paper book and further as per Details of Family, the name of the applicant had appeared in Form 3 under rule 54 (12) as member of the family with relationship as wife.

**18.** It is pertinent to mention that these documents have been prepared when the husband of the applicant was alive. In the instant case, the possibility of manipulation, particularly due to the fact that the in-laws of the applicant was working as accountant in the respondent department and after the death of

husband of the applicant, there is total change towards the applicant, could not be ignored.

**19.** In view of the above, this Original Application is allowed and the respondents are directed to release all service related dues of her deceased husband with interest at the GPF rate at the relevant time till the actual payment. It is also made clear that the case of the applicant shall also to be considered for compassionate appointment as per rules.

**20.** The said exercise is to be completed within a period of 60 days from the date of receipt of a certified copy of this order. No order as to costs.

**(Ramesh Singh Thakur)**  
**Judicial Member**

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