

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2633 OF 2014

Union Of India, Through Chief Works Manager,
Central Railway

...Petitioner

Versus

1.Chandrika K. Kunhelu And Ors.

...Respondents

Ms.Sangita Yadav h/f. Mr.Suresh Kumar, for the Petitioner.

Mr.D.W.Bhogale, for Respondent Nos.1 and 2.

Mr.S.A.Rajeshirke, for Respondent No.3.

**CORAM : ANOOP V. MOHTA &
G.S. KULKARNI, JJ.**

DATE : 27th September, 2016.

ORDER :

1. Surprisingly the Union of India has filed this petition against private parties. Respondent No.1 is the first wife of the deceased employee. Respondent No.2 is the daughter of the deceased employee and the first wife. Respondent No.3 claims to be the second wife. The issue as raised in the Petition is as regards the disbursement of the entitlement of the retirement dues of the deceased employee late Kunhan T. Kunhelu, in view of the rival claims of Respondent No.1 and

Respondent No.3. The contention of the Petitioner is that under the Rules for disbursement of retirement dues and the Pension Rules, only Respondent Nos.1 and 2 become eligible for disbursement of these amounts. The contention is that as there was a dispute between Respondent Nos.1 and 2 on one hand and Respondent No.3 on the other, this petition was required to be filed for the following prayers which read thus:-

“(a) This Hon'ble High Court will be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction and to hold that the respondent No.1 and 2 are only entitled to the retired dues as per the Pension Rules.

(b) Pending hearing and final disposal of this Writ Petition this Hon'ble High Court be pleased to permit the Petitioner to disburse the retirement dues as per the Pension Rules.

(c) For such further and other orders as this Hon'ble High Court may deem fit in the facts and circumstances of the present case.”

2. We are at a loss to understand as to how this Petition under Article 226 of the Constitution of India by the Union of India for the above reliefs and that too against private Respondents would be maintainable. It cannot be in dispute that the Petitioner-Union of India is required to grant

retirement dues and pension as per the Rules in that regard.

The rules permit payment of retirement dues and pension to Respondent No.1, then, we do not see how a claim of Respondent No.3 would detain the Petitioners from proceeding and making payment of the said dues to Respondent Nos.1 and 2. The learned Counsel for Respondent Nos.1 and 2 submits that though the deceased employee expired long back, no action has been taken for payment of retirement dues, in view of pendency of the Petition.

3. In the light of the above discussion, we are of the clear opinion that the present petition is wholly misconceived and cannot be entertained. Needless to observe that the Petitioner-Union of India shall disburse the retirement dues to Respondent Nos.1 and 2 within a period of eight weeks from today.

4. At this stage, the learned Counsel for Respondent Nos.1 and 2 and the learned Counsel for Respondent No.3 contend that these Respondents between themselves have arrived at a settlement. We do not express any opinion on any private settlement between the Respondents. Surely this will not preclude the Petitioner from legitimately granting payment of dues to Respondent Nos.1 and 2 as contended, if so

permissible under the Rules.

5. Writ Petition is dismissed, however subject to the above observations.

(G.S.KULKARNI, J.)

(ANOOP V. MOHTA, J.)