

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI**

WRIT PETITION NO.9581 OF 2017

O R D E R

(Per Sri Justice Sanjay Kumar)

By way of this writ petition, the Bharat Sanchar Nigam Limited (BSNL) challenges the order dated 03.02.2017 passed by the Central Administrative Tribunal, Hyderabad Bench (for brevity, 'the Tribunal'), in O.A.No.775 of 2016. The said O.A. was filed by the respondents herein, claiming to be the husband and son respectively of late P.Laxmi Samrajyam, Telephone Supervisor (Operative) in the service of the BSNL. Their prayer in the said O.A. was to declare that the action of the BSNL in not releasing the retiral benefits of late P.Laxmi Samrajyam in their favour was illegal and to consequently direct the BSNL to pay them gratuity, GIS, family pension and other terminal benefits along with interest. By the order dated 03.02.2017, the Tribunal allowed the O.A. and directed the BSNL to release the gratuity and other death benefits to the respondents herein along with the family pension and arrears. The BSNL was also directed to pay interest at the rate applicable to GPF deposits. Two months time was granted for compliance.

Heard Ms.P.Yasasvi, learned counsel for the BSNL, and Sri V.Venkata Kumar, learned counsel on caveat for the respondents.

It is not in dispute that late P.Laxmi Samrajyam was an employee of the BSNL, having worked as a Telephone Supervisor (Operative) under SDE (Trunk)/SDE (Buildings). She died on 21.01.2006. The record reflects that the respondents have been running from pillar to post since then to secure her terminal benefits, including family pension. Earlier, they approached the Andhra

Pradesh State Human Rights Commission by way of HRC No.1886 of 2006 and thereafter, the designated authority under the Payment of Gratuity Act, 1972, by way of P.G. Application No.20 of 2011. However, such efforts having come to naught for one reason or the other, they approached the Tribunal by way of the subject O.A.

The stand of the BSNL was that late P.Laxmi Samrajyam did not submit a nomination form for payment of gratuity, pension and other terminal benefits. She also did not submit a declaration in Form-3 with regard to her family particulars. As no nomination was furnished by her during her lifetime as to disbursal of such benefits, the BSNL insisted that the respondents should submit a succession certificate issued by a Court of law so as to rightfully claim the terminal benefits of late P.Laxmi Samrajyam.

However, upon perusing the material produced before it, the Tribunal found that there was a significant body of evidence to show that the 1st respondent was the husband of late P.Laxmi Samrajyam and that the 2nd respondent was their son. The service certificate dated 16.02.2004 issued by the SDE (Admn.), office of the General Manager (Central), BSNL, Hyderabad, confirmed that Smt. P.Laxmi Samrajyam, TSO St No.1878 (W/o Sri B.Srinivas Rao), was working in the department since 1981. That apart, the legal heir certificate dated 19.04.2006 issued by the Mandal Revenue Officer, Musheerabad Mandal, Hyderabad, certified that the 1st respondent herein was the husband of late P.Laxmi Samrajyam and the 2nd respondent was their son. Further, the 1st respondent, an employee of the South Central Railway, produced material in proof of his having nominated his wife, late P.Laxmi Samrajyam, as his nominee for receiving his terminal benefits. This clearly demonstrated that late

P.Laxmi Samrajyam was shown in the records of the South Central Railway as the wife of the 1st respondent. Given all this material, the Tribunal concluded that the marital relationship between late P.Laxmi Samrajyam and the 1st respondent was clearly established.

Apart from the aforestated material relied upon by the Tribunal, this Court finds that there is one other clinching piece of evidence in proof of the relationship between the 2nd respondent and late P.Laxmi Samrajyam. The Registration Form, submitted by late P.Laxmi Samrajyam during her lifetime, under the BSNL Employees Medical Reimbursement Scheme manifests that, beside naming herself as a beneficiary under the scheme, she mentioned the names of Gopi Krishna Chaitanya, the 2nd respondent herein, showing his relationship with her as her son, and Govindamma, her mother.

When the BSNL did not dispute this Registration Form, which clearly evidenced that late P.Laxmi Samrajyam had a son and as more than sufficient material was produced by the 1st respondent in proof of his being her husband, the BSNL was not justified in adopting a pedantic approach in the matter and insisting upon a succession certificate as a condition precedent for release of the retiral benefits of late P.Laxmi Samrajyam. As pointed out in ***RAMESHWARI DEVI V/s. STATE OF BIHAR***¹, authorities are required to conduct an investigation as to a claimant's right to retirement benefits without insisting upon a decision from the civil Court. In the present case, more than enough material was produced by the respondents to establish their relationship with late P.Laxmi Samrajyam. This Court therefore finds no merit in the contention urged by Ms.P.Yasasvi, learned counsel, that the BSNL was justified

¹ AIR 2000 SC 735

in insisting upon a succession certificate in proof of such relationship.

Further, reliance placed by the BSNL upon Rule 52 of the Central Civil Services (Pension) Rules, 1972, is wholly misplaced. This rule states that where a Government servant dies while in service or after retirement without receiving the amount of gratuity and leaves behind no family and has made no nomination, the retirement gratuity/death gratuity payable in respect of such employee shall lapse to the Government. As rightly pointed out by the Tribunal, the operative clause in the aforestated rule for lapsing of the gratuity is: 'if the Government servant dies without leaving behind any family'. In the present case, the Registration Form submitted by late P.Laxmi Samrajyam clearly demonstrated that she had a son and mother. This was therefore not a case where no family was left behind by late P.Laxmi Samrajyam, whereby the gratuity amount would lapse to the Government.

We therefore find no grounds made out to interfere with the well reasoned and cogent order passed by the Tribunal.

Ms.P.Yasasvi, learned counsel, would finally contend that this was not a fit case for awarding interest, as the respondents themselves contributed to the delay by unnecessarily approaching different authorities. This contention also does not merit consideration. It was the hidebound approach of the BSNL which gave rise to this litigation. When there was no rival claimant to the death benefits of late P.Laxmi Samrajyam and more than adequate material was produced by the respondents herein to lay their rightful claim to the same, the BSNL ought to have verified and accepted the same as it clearly established the right of the respondents to claim

the retiral benefits of late P.Laxmi Samrajyam, including the family pension. Further, despite sufficient material being available in its own records in proof of the 2nd respondent being the son of late P.Laxmi Samrajyam, the BSNL did not even choose to release his share of the retiral benefits. Significantly, Govindamma, the mother of late P.Laxmi Samrajyam, died on 11.06.2008. The death certificate issued by the Municipal Commissioner, Bapatla Municipality, evidences this fact. Therefore, the mother and the son of late P.Laxmi Samrajyam were her surviving family members as on the date of her death and this was within the knowledge of the BSNL going by their own records. Despite the same, they did not choose to release even their share of the retiral benefits, keeping apart the disputed share of the 1st respondent, the husband of late P.Laxmi Samrajyam. Having adopted this adamant stand and having denied the rightful benefits due to the respondents since 2006, the BSNL cannot now claim immunity from liability to pay interest. We therefore find no error in the Tribunal granting this relief also.

On the above analysis, the writ petition is found to be wholly devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

N.BALAYOGI, J

18th APRIL, 2017

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