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**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**WRIT PETITION (CIVIL) No. 1611/2016**

Date of decision: 27<sup>th</sup> January, 2017

AMAN KUMAR PANDEY

..... Petitioner

Through Mr. Om Prakash, Advocate.

versus

GENERAL MANAGER MAHANAGAR TELEPHONE NIGAM  
LIMITED AND ANR.

..... Respondents

Through Mr. R. Sudhinder, Ms. Prerana Amitabh  
& Mr. Dattatray Vyas, Advocates for respondent  
Nos. 1 and 2.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

**SANJIV KHANNA, J. (ORAL):**

Aman Kumar Pandey, in this writ petition, has challenged the order dated 28<sup>th</sup> January, 2015 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) in OA No. 2949/2014, *Sushila Devi versus General Manager, Mahanagar Telephone Nigam Limited* and *Chairman and Managing Director, Mahanagar Telephone Nigam Limited*. The petitioner was not a party to the said OA, which was filed by his mother Sushila Devi. The grievance of the petitioner is that the order dated 28<sup>th</sup> January, 2015 while deciding OA No. 2949/2014 filed by Sushila Devi also decides the rights of the petitioner, who claims that he is the son of late Ram Dulare Pandey. This order dated 28<sup>th</sup> January, 2015 holds that the petitioner cannot claim that he is one of legal representatives /heirs of late Ram Dulare Pandey.

2. There is a dispute between Sushila Devi and Geeta Devi, as to who was the legally wedded wife of late Ram Dulare Pandey. We are not expressly and directly concerned with the said dispute in the present writ

petition, as even if it is assumed that Sushila Devi was not the legally wedded wife of late Ram Dulare Pandey, this would not deny the claim of the petitioner-Aman Kumar Pandey that he is a legal heir of his father late Ram Dulare Pandey. Law of inheritance treats all sons and daughters alike, whether born from the first or the second marriage. Rules or office orders to the contrary, may well require examination and can be made subject matter of challenge.

3. Accordingly, we would accept the present writ petition to the extent that the order dated 28<sup>th</sup> January, 2015 passed in OA No. 2949/2014, ***Sushila Devi versus General Manager, Mahanagar Telephone Nigam Limited and Another***, would not be a ground to reject and negate the rights of the petitioner, who claims that he is the son of late Ram Dulare Pandey and, therefore, would be entitled to inheritance or family pension. This *lis* and dispute must be adjudicated and decided, notwithstanding the decision in ***Sushila Devi versus General Manager, Mahanagar Telephone Nigam Limited and Another***.

4. The second prayer in the writ petition made by the petitioner is for quashing of the order dated 22<sup>nd</sup> September, 2015 passed by the General Manager, Northern Region, Mahanagar Telephone Nigam Limited. This order was passed pursuant to the directions given in the Tribunal's order dated 28<sup>th</sup> January, 2015 disposing of OA No. 2949/2014, ***Sushila Devi versus General Manager, Mahanagar Telephone Nigam Limited and Another***. The petitioner, if aggrieved by the said order, would have to initiate appropriate proceedings before the Tribunal, i.e., the court/forum of the first instance. This was also observed by this Court in the order dated 28<sup>th</sup> March, 2016. However, notice was issued as some of the observations in the order dated 28<sup>th</sup> January, 2015 passed in OA No. 2949/2014, ***Sushila Devi versus General Manager, Mahanagar Telephone Nigam Limited and Another***, would have barred and prevented the petitioner from raising

his claim as a legal heir/representative. We have already observed that the findings of the Tribunal in the order dated 28<sup>th</sup> January, 2015 would not bar or prevent the petitioner from raising his claim as the son of late Ram Dulare Pandey. This being the position, now there is no impediment in the petitioner approaching the Tribunal staking his claim and right. If required, he may challenge validity of the Rule or office order.

5. We have permitted the petitioner to approach the Tribunal for another reason. There is also a dispute regarding the date of birth of the petitioner, who claims that he was born on 13<sup>th</sup> September, 1997, whereas the respondents claim that the date of birth of the petitioner is 13<sup>th</sup> September, 1995. The order dated 22<sup>nd</sup> September, 2015 holds that the date of birth of the petitioner is 13<sup>th</sup> September, 1995. This controversy would also have to be examined and gone into, if raised by the petitioner before the Tribunal.

6. In view of the aforesaid discussion, we hold that the order dated 28<sup>th</sup> January, 2015 passed in OA No. 2949/2014, *Sushila Devi versus General Managar, Mahanagar Telephone Nigam Limited and Another*, would not foreclose or prevent the petitioner from raising his claim as the son of late Ram Dulare Pandey and accordingly his entitlement to the retirement and claim for family pension. However, we clarify that we have not expressed any opinion on merits and on any other aspect. The writ petition is accordingly disposed of. No costs.

Copy of this order will be given dasti to the learned counsel for the parties under signature of the Court Master.

**SANJIV KHANNA, J.**

**CHANDER SHEKHAR, J.**

**JANUARY 27, 2017**  
**VKR**