

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.21258 of 2017

Pattu Petitioner

-vs-

- 1.Thilagavathy
 - 2.Union of India,
rep. by the General Manager,
Southern Railway,
Chennai.
 - 3.The General Manager,
Southern Railway,
Chennai.
 - 4.The Divisional Railway Manager (Personal),
Southern Railway,
Trivandrum.
 - 5.The Divisional Personal Officer,
Southern Railway, Trivandrum Division,
Trivandrum.
 - 6.The Deputy Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the Tribunal order in O.A.No.310/00860 of 2015 dated 04.11.2016 and quash the same and, direct the respondents 2 to 4 to pay the family pension in

favour of the petitioner, with all terminal benefits including gratuity provident fund equally.

For Petitioner : Mr.K.Thiruvalluvan

For Respondents : Mr.R.Mahesh
for Mr.R.Subramanian
for 1st respondent

Mr.P.T.Ramkumar
Standing Counsel
for respondents 2 to 5
R6-Tribunal

ORDER

(Order of the Court made by The Hon'ble Chief Justice)

Heard Mr.K.Thiruvalluvan, learned counsel for the petitioner; Mr.R.Mahesh, learned counsel for the first respondent and Mr.P.T.Ramkumar, learned Standing Counsel for the respondents 2 to 5.

2. This writ petition has been filed by the petitioner against the order passed by the Central Administrative Tribunal, Madras Bench, Chennai dated 4.11.2016 in O.A.No.310/00860 of 2015 preferred by the first respondent.

3. The petitioner herein claims to be the second wife of deceased Railway employee E.Krishnan. E.Krishnan was working as Khalasi-I in the Southern Railway and he expired on 20.9.2011. On the death of the deceased Railway employee E.Krishnan, the Railways were reluctant to disburse the amount to the first respondent who was the first wife, as according to the Southern Railways, the present petitioner Pattu was entitled to the terminal benefits. This was so as in the family composition, the name of 'Pattu' was entered as wife. Being aggrieved by the non-disbursal of terminal benefits to her, the first respondent filed a suit in O.S.No.349 of 2011 before the District Munsif Court, Thirupathur against the present petitioner and the Railways for declaration that she is entitled to the terminal benefits of the deceased E.Krishnan. The case was referred to the Lok Adalat, where a compromise decree was passed to the effect that the present first respondent is entitled to entire pension and that the present petitioner and

the first respondent are entitled to equal share in the Gratuity, Provident Fund and other benefits and that the son of the present petitioner is allowed to make an application for compassionate appointment.

4. The Central Administrative Tribunal disposed of the O.A. by holding that the applicant i.e., the present first respondent, is entitled to the family pension and the terminal benefits of the deceased E.Krishnan as per her share. The Central Administrative Tribunal relied on the compromise decree, which was passed after the case was referred to the Lok Adalat and the Central Administrative Tribunal disposed of the O.A. as per the decree which recorded the compromise entered into by the present petitioner and the first respondent.

5. According to the petitioner, she is the legally wedded wife of the deceased Railway employee E.Krishnan. In support thereof, reliance is placed on the family composition of late E.Krishnan, as seen from the records of Southern Railway. The family composition shows that the present petitioner Pattu is shown as wife and the son's name is shown as M.K.Venkatesan i.e., son born to her from E.Krishnan. The learned counsel for the petitioner submitted that as the petitioner is the wife of deceased Railway employee E.Krishnan, the petitioner is entitled to all terminal benefits.

6. It is an admitted fact that the first respondent Thilagavathy had filed a suit being O.S.No.349 of 2011 on the file of the District Munsif Court, Thirupathur against the present petitioner and the Railways for declaration that she is entitled to terminal benefits of the deceased Railway employee E.Krishnan. The matter, as stated earlier, was referred to the Lok Adalat, wherein on account of settlement between the parties, a compromise decree was passed.

7. The Hon'ble Supreme Court, in the case of K.N.Govindan Kutty Menon v. C.D.Shaji, reported in (2012) 2 SCC 51, has observed that the Award passed by the Lok Adalat would be treated as decree of Civil Court and the same would be executable. The decision rendered by the Hon'ble Supreme Court in K.N.Govindan Kutty Menon, supra, squarely covers the case on hand. The relevant portions of the judgment to decide the issue herein are extracted as under:

"11. Section 21 of the Legal Services Authorities Act contemplates a deeming provision, hence, if it is a legal fiction that the "award" of the Lok Adalat is a decree of a civil court. In the case on hand, the question posed for consideration before the High Court was that "when a criminal

case referred to by the parties and an award is passed recording the settlement can it be considered as a decree of a civil court and thus executable by that court?" After highlighting the relevant provisions namely, Section 21 of the Act, it was contended before the High Court that every award passed by the Lok Adalat has to be deemed to be a decree of a civil court and as such, executable by that court.

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25. In P.T. Thomas v. Thomas Job, the Lok Adalat, its benefits, award and its finality have been extensively discussed.

26. From the above discussion, the following propositions emerge:

- 1) In view of the unambiguous language of Section 21 of the Act, every award of the Lok Adalat shall be deemed to be a decree of a civil court and as such it is executable by that court.
- 2) The Act does not make out any such distinction between the reference made by a civil court and a criminal court.
- 3) There is no restriction on the power of the Lok Adalat to pass an award based on the compromise arrived at between the parties in respect of cases referred to by various courts (both civil and criminal), tribunals, Family Court, Rent Control Court, Consumer Redressal Forum, Motor Accidents Claims Tribunal and other forums of similar nature.
- 4) Even if a matter is referred by a criminal court under Section 138 of the Negotiable Instruments Act, 1981 and by virtue of the deeming provisions, the award passed by the Lok Adalat based on a compromise has to be treated as a decree capable of execution by a civil court."

Thus, the Hon'ble Supreme Court in the judgment cited supra in clear terms without any ambiguity has held that when a compromise or settlement is arrived at before Lok Adalat, the award passed by Lok Adalat on that basis would be treated as a decree of Civil Court by virtue of deeming provision in the Legal Services Authorities Act, 1987 and the same would be executable.

8. In the instant case, the Railway employee E. Krishnan expired while in harness and in respect of his terminal

benefits, there was a rival claim between the present petitioner and the first respondent Thilagavathy. The present petitioner Pattu was arrayed as one of the defendants in the civil suit. It is again reiterated that an agreement was entered into between the present petitioner Pattu and the first respondent Thilagavathy and by consent the matter was referred to the Lok Adalat, which passed an Award. Now the Award would be binding on the present petitioner and the first respondent. By preferring the O.A., the petitioner had virtually challenged before the Tribunal, the decree passed in the civil suit, which cannot be permitted as per the decision of the Hon'ble Supreme Court in K.N.Govindan Kutty Menon, supra.

9. In view of the decision of the Hon'ble Supreme Court in K.N.Govindan Kutty Menon, supra, the Award of the Lok Adalat is binding on the parties and the present petitioner cannot challenge the Award passed by the Lok Adalat. The present petitioner can only get the terminal benefits of the deceased Railway employee E.Krishnan as per her share set out in the Award.

10. In this view of the matter, we see no merit in the writ petition and the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Registrar,
Central Administrative Tribunal,
Chennai Bench, Chennai.

+1cc to Mr.R.Subramanian, Advocate Sr.58646
+1cc to Mr.K.Thiruvalluvan, Advocate Sr.59079
+1cc to Mr.P.T.Ramkumar, Advocate Sr.58520

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srg 10/09/2018