
(2014) 09 RAJ CK 0025
In the Rajasthan High Court
Case No : DB Civil Writ Petition No. 4404/2014

Paan Bai

APPELLANT

Vs

UOI

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2014) 09 RAJ CK 0025

Hon'ble Judges : J.K. Ranka, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : Gaurav Sharma Saraswat, Advocate for the Appellant

Final Decision : Dismissed

Judgement

1. Instant petition is directed against the order of the Tribunal dt. 28.1.2014.
2. It is certainly a very hard case where a widow approached the Tribunal in second round of litigation to claim compassionate allowance provided u/Rule 65 of the Railway Services (Pension) Rules, 1993 (Rules 1993) and that was declined by the Tribunal vide order impugned.
3. The facts which we have gathered from the record and relevant for our consideration are that petitioner's late husband Ramji Lal who was appointed initially on casual basis and as per the records rendered 7 years 8 months of service. However, in a departmental enquiry he was held guilty and punished with the penalty of removal from service vide order dt. 27.10.1993 and the order of removal was never the subject matter of challenge, however, he died in February, 2000 and after his death, the petitioner filed application before the Railway Establishment claiming compassionate allowance u/R. 65 of the Rules 1993 but in the first round of litigation when he preferred OA-511/2012 that came to be disposed of by the Tribunal vide order dt. 11.12.2012 with the direction to the respondents to consider the case of the petitioner for grant of compassionate allowance in the light of rules and instructions prevailing at the

time of passing of the order and on the date of removal from service of her late husband i.e. on 27.10.1993.

4. In compliance of the Tribunal's order, the petitioner approached Railway Establishment to consider the claim for compassionate allowance but that was declined vide order dt. 28.1.2013 read with order dt. 11.2.2013 and that became the subject matter of challenge by filing OA before the Tribunal and after hearing the parties, the Tribunal was not inclined to grant relief prayed for invoking R. 65 of the Rules 1993 and the facts which prevailed for consideration was that the incumbent who served Railway Establishment for a period of 7 years and 8 months in disciplinary enquiry after holding guilty was removed from service on 27.10.1993 and order of punishment inflicted upon him was never the subject matter of challenge and he died on 28.2.2000 and in these seriatim of facts, the Tribunal was not inclined to consider and holding any substance in the application which the widow submitted in the office of the Railway Establishment claiming compassionate allowance invoking R. 65 of the Rules 1993.

5. It was not the case of the petitioner that action of the respondent authorities either was discriminatory or has not been considered in fair and impartial manner, however, grievance was that the incumbent who served Railways if removed from service in a disciplinary enquiry, whose pension and gratuity stands forfeited in furtherance thereof, however, makes the widow entitled for compassionate allowance and the Id. Tribunal in the facts & circumstances approved the action of the Railway Establishment and dismissed the OA under order impugned.

6. R. 65 of the Scheme of Rules 1965 relevant for the purpose reads ad infra-

7. Rule 65-Compassionate Allowance-

(1) A railway servant who is dismissed or removed from service shall forfeit his pension and gratuity:

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension"

(2) A compassionate allowance sanctioned under the proviso to sub-rule (1) shall not be less than three hundred seventy five rupees per mensem.

8. R. 65 of the Rules 1956, envisage that when such railway servant is dismissed or removed from service his pension and gratuity stands forfeited by implication of law but in a case where incumbent is removed or dismissed from service and that forfeit his pension and gratuity, if the case deserves special consideration, the railway establishment obviously for subsistence of the family or those who are dependent upon incumbent has an option to consider for grant of compassionate allowance but that may not exceed 2/3rd of the pension or gratuity as the case may be and sub-rule (2) puts further embargo for the

quantified sum which can be sanctioned in the form of compassionate allowance.

9. In the instant case, the incumbent who served the Railways for 7 years 8 months and removed from service after holding enquiry and that was never questioned and after the death of the incumbent widow filed application seeking compassionate allowance, in our view, R. 65 of the Rules 1993 cannot be claimed as a matter of right and after going through the order of the Tribunal we do not find manifest error being committed which requires interference of this Court u/ Art. 227 of the Constitution.

10. Consequently, the petition is devoid of merit and accordingly dismissed.