

(2021) 09 DEL CK 0324

In the Delhi High Court

Case No : Civil Writ Petition No. 9478 Of 2021

Rashmi Sinha

APPELLANT

Vs

Union Of India General Manager & Anr

RESPONDENT

Date of Decision : 06-09-2021

Acts Referred:

Citation : (2021) 09 DEL CK 0324

Hon'ble Judges : Rajiv Shakdher, J; Talwant Singh, J

Bench : Division Bench

Advocate : R.K. Shukla

Final Decision : Dismissed

Judgement

Rajiv Shakdher, J

CM APPL. 29414/2021

1. Allowed, subject to just exceptions.

W.P.(C) 9478/2021

2. On the previous date, i.e., 02.09.2021, we had passed the following order:

"CM No.29414/2021

1. Allowed, subject to the petitioner, filing legible copies of the dim annexures, before the next date of hearing.

W.P.(C) No.9478/2021

2. This writ petition is directed against the order, dated 24.9.2019.

2.1. Essentially, the petitioner is aggrieved by the fact that, her request for appointment, on compassionate ground, on account of the death of her husband has been rejected by the respondents, vide order dated 5.8.2015.

2.2. The record shows that, the husband of the petitioner was removed from the

service on 16.10.2003, after an inquiry was carried out. The order of the disciplinary authority, dated 16.10.2003, was not challenged by the husband of the petitioner, i.e., one, Mr. Sanjay Sinha.

3. Ms. Bhawna Massay, who appears on behalf of the petitioner, says that the aforementioned order dated 16.10.2003, was not communicated to the petitioner.

3.1. This plea advanced on behalf of the petitioner, seems completely unbelievable, as the petitioner's husband, i.e., the deceased Mr. Sanjay Sinha, could not have attended office or received his salary, after 16.10.2003.

4. At this stage, Ms. Massay seeks accommodation on the ground that the counsel, who has to argue the matter on behalf of the petitioner, is not available today.

5. Accordingly, at the request of Ms. Massay, list the matter on 6.9.2021."

2.1. As would be evident from a perusal of the order dated 02.09.2021, the matter was stood over, as Ms. Bhawna Massay, Advocate, who appeared on behalf of the petitioner, on that day, after the matter was argued substantially, sought accommodation in the matter on behalf Mr. R.K. Shukla i.e., the counsel-on-record for the petitioner.

2.2. Mr. Shukla says that, the respondents should be directed to produce the order dated 16.10.2003, whereby, the petitioner's husband was removed from service.

3. In our order dated 02.09.2021, we had dealt with a similar plea which is reflected in paragraph 3 and 3.1 of the said order. We continue to disbelieve the petitioner that her husband had not been removed from service.

3.1. The petitioner i.e., the wife would have known that her husband was not going back, to the same job, and that he was not drawing any salary from the same job. The petitioner's husband, for whatever reasons, chose not to take recourse to a legal remedy, qua the order of removal dated 16.10.2003, which was passed by the disciplinary authority, after an enquiry.

3.1. Although, Mr. Shukla affirms the foregoing position, he says that, the petitioner became aware of this fact, only when her request for compassionate appointment was rejected.

3.2. According to us, the submission made by Mr. Shukla, is misconceived.

4. Given the fact that, the petitioner's deceased husband, was removed from service, as far back as on 16.10.2003, and that the said order was not assailed by him, during his lifetime, makes the case advanced by the petitioner, for appointment on compassionate ground, untenable.

5. Accordingly, the writ petition is dismissed.