
(2019) 09 CAT CK 0032

In the Central Administrative Tribunal

Case No : Original Application No. 2107 Of 2018

Sharda Devi

APPELLANT

Vs

Union Of India Through And Ors

RESPONDENT

Date of Decision : 05-09-2019

Acts Referred:

Railway Service (Pension) Rules, 1993 — Rule 65

Citation : (2019) 09 CAT CK 0032

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : A.K. Bhakt, A.K. Srivastava

Final Decision : Dismissed

Judgement

1. This OA has been filed by the applicant seeking following reliefs :-

"(I) To quash and set aside the impugned Order dated 26.02.2016 (Annexure A/1) and direct the respondents to grant compassionate allowances to the applicant in terms of Rule 65 of Railway Service (Pension) Rules 1993.

(II) To direct the respondents to produce the service records of the applicant's husband for proper adjudication.

(III) To award exemplary cost on the respondent for causing undue harassment.

(IV) To pass any other order or orders which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

2. The applicant in this OA is mainly aggrieved by the impugned order dated 26.02.2018 which had been passed in pursuance of his earlier OA No. 3716/2017 and whereby her representation dated 19. 01.2017 seeking compassionate allowance had been rejected by the respondents. The applicant has challenged this impugned order on the grounds that it has been passed without application of mind and without considering the fact that the her deceased husband had rendered service for the period of 17 years, months and 21 days in the

respondent organization. The applicant, in this context, has relied upon the decision of this Tribunal in the case of Shri Ram Chander v. Commissioner of Police & Ors. (OA No. 1312/2014) decided on 03.03.2015 in which the Tribunal had directed the respondents to consider the request of the applicant for compassionate allowance. Feeling aggrieved by the impugned order of the respondents dated 26.02.2018, the applicant has filed the present OA.

3. In reply to the above, the respondents have filed their reply stating that the applicant's husband Late Sujan Singh Ex. Coach Attendant/Tundla was caught by the vigilance team on duty on 05.01.1994 for serious irregularities of taking bribe Rs. Eighty from two passengers and served with Major Penalty Charge sheet dated 27. 10.1994 and his appeal to Sr. DCM/Allahabad and revision appeal to ADRM/Allahabad, were also rejected vide orders dated 15.05.1996 and 02.09.1996 respectively. They have further contended that the late husband of the applicant had challenged these orders up to the level of the Hon'ble High Court by way of WP(C) No. 4006/97, which was also dismissed on 29.01.1999. They have also contended that since the removal of the applicant for displaying dishonesty during his duty had been approved at the level of the Hon'ble High Court and in view of the extant instructions mentioned in the para (IV) of Railway Board Circular No. F(E) 111/2003/PN1/5 dated 04.11.2008 (RBE No. 16412008) - Award of compassionate allowance should not be considered if the Railway servant had been dishonest, they have rightly rejected the case of the applicant for compassionate appointment. Hence, they have prayed for dismissal of the OA.

4. After hearing the learned counsel for the parties and perusing the pleadings available on record, it is noticed that the Tribunal in the earlier OA bearing OA No. 3716/2017 filed by the applicant had only directed the respondents to consider his representation dated 19. 01.2017 and in compliance thereto, the respondents had considered the said representation of the applicant and had passed a detailed order dated 26.02.2018 in light of the Para 3(IV) of Railway Board's Circular vide RBE 164 of 2008. The said Para 3(IV) thereof reads as under:-

"(iv) Award of compassionate allowance should not be considered if the Railway servant had been dishonest, which was a ground for his removal/dismissal."

Since the late husband of the applicant had been removed from service on proving the charge of dishonesty against him and his removal from service had been approved even up to the level of High Court, the respondents have acted in accordance with the extant instructions and have rightly rejected the claim of the applicant for compassionate allowance in light of Para 3(IV) of Railway Board's Circular vide RBE 164 of 2008. We have also examined the judgment in the case of Ram Chander (supra) relied upon by the applicant and find that the only direction issued therein was to reconsider the request of the applicant therein for compassionate allowance, whereas in the present case, the respondents had already considered the claim of the applicant and had passed the speaking order

thereon in compliance of the directions of Tribunal in OA No. 3716/2017. In view of the same, there is no irregularity in the decision of the respondents. The OA is accordingly dismissed. No order as to costs.