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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2094/2002

New Delhi this the 23rd day of June, 2003.

Hon'ble Sh. Justice V.S. Aggarwal, Chairman
Hon'ble Sh. S.K. Naik, Member(A)

Bhagwati Pohani,
W/o Sh. R.K. Pohani,
Ex. Engineer CPWD (Missing)
Residential Address
B-467, Sarita Vihar,
New Delhi. Applicant

(Present : None)

Versus

1. Ministry of Urban Development
through Secretary,
Nirman Bhawan, New Delhi.
2. Superintending Engineer(Pay & Accounts)
NDZ IV CPWD,
East Block 1, Level 3,
R.K. Puram,
New Delhi. Respondents

(through Sh. R.N. Singh, Advocate)

ORDER (ORAL)

Hon'ble Sh. Justice V.S. Aggarwal, Chairman

The husband of the applicant was working as Executive Engineer, Headquarters in the C.P.W.D. There were certain allegations of ~~the~~ dereliction of duty against him. Disciplinary proceedings were initiated against him. The husband of the applicant had not contested the same. On 15.07.1994, the Disciplinary Authority imposed a penalty of dismissal from service on the husband of the applicant.

2. The applicant being the wife of Sh. R.K. Pohani, by virtue of the present application, seeks

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quashing of the order dismissing her husband from service. She further seeks that, in any case, family pension, gratuity and other monetary benefits should be released to her.

3. The matter has been listed today but there is no one on behalf of the applicant. It appears that the appeal had been put in by the counsel working with the Legal Aid Services but when neither the applicant nor the counsel is present, we deem it necessary not to postpone the matter and we are proceeding to decide the same.

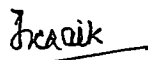
4. At the outset, it can well be mentioned that once a person had been dismissed from service, the question of seeking the pensionary benefits will not arise. Conscious of this fact, the applicant had chosen to assail the order dismissing her husband from service. When the order of dismissal had been passed on 15.07.1994, the present application seeking quashing of the said order has been preferred only on 31.07.2002. The period of limitation had long expired.


5. Perusal of the application shows that an attempt has been made to overcome the said difficulty by pointing out that since the year 1992 the husband of the applicant was missing and, therefore, he is presumed to be alive only ^{up to} ~~after~~ seven years of the same. Be that as it may, still from the year 1999 the applicant must explain the delay that had occurred in filing of the



application. There is no whisper in this regard. The application in any case would be barred by time.

6. Even for the sake of argument, if we dwell at the argument of dismissal, it is obvious that the applicant has not shown as to how the departmental proceedings initiated were invalid or were against the rules. When the disciplinary proceedings had been initiated, there was no presumption that the husband of the applicant was not alive. Once the regular procedure has been adopted, it is too late in the day for the applicant to assail the said order that has been passed. We find no infirmity therein. Resultantly, the OA being without merit must fail~~g~~ and is accordingly dismissed.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

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