

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD



OA/021/00656/2019
Date of Order : 20-01-2020

HYDERABAD, this the 20th day of January, 2020.

THE HON'BLE MRS.NAINI JAYASEELAN: ADMINISTRATIVE MEMBER

K. Yadaiah S/o K.Yellaiah aged about 61 years,
(Group C) Occupation Welder MCM (Removed),
R/o 2-109, Nallagandla, Serilingampally, RR Dist.,

(By Advocate : Mr. K. Siva Reddy) ...Applicant

Vs.

Union of India Represented by

1. The Secretary, Ministry of Defence,
New Delhi.
2. Ordnance Factory rep. By its General Manager,
Yeddu-mailaram, Sanga Reddy District.
(By Advocate : Mrs.K.Rajitha, Sr. CGSC)

....Respondents

(Oral Order per Hon'ble Mrs.Naini Jayaseelan, Administrative Member)

This application is filed under section 19 of the Administrative
Tribunal's Act, 1985, for the following relief :

OA/021/00656/2019

- (i) To call for the records pertaining to the Proceedings
No.15/1011/VLC/LEGAL/OFMK/2019 dt.15.7.2019 of the



Respondent No.2 wherein the payment of the Compassionate allowance was rejected and declare the same is arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India and contrary to the orders passed by this Hon'ble Tribunal and Rules and set aside the same;

- (ii) Consequently direct the respondents to sanction the compassionate allowance and gratuity to the applicant with all consequential benefits from the date of penalty order of the applicant and direct to pay the interest @ 18% per annum on the arrears till the date of payment;
- (iii) To pass such orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

2. The case of the applicant is that the applicant was employed as a Master Craftsman (Welder) and was on unauthorised absence from 03.01.2005 for which a charge sheet was issued to him on 08.08.2005 and subsequently the Disciplinary Authority removed him from service on 07.12.2006. The appeal filed by the applicant was also rejected in the year 2007. Subsequently, on 25.11.2016 the applicant filed an application for Compassionate Allowance which was rejected vide impugned order No. 15/1011/VLC/LEGAL/OFMK/2019, 15.07.2019 (Annexure A 5 to OA), on the ground that, *'the Competent Authority has reviewed the charges on which the penalty of Removal from service was imposed and decided that it is not a fit case for grant of Compassionate*

OA/021/00656/2019



Allowance as per Rule 41 of CCS (Pension) Rules, 1972. Further, being a time barred case, the application of the applicant cannot be considered'.

3. Heard Mr. K. Siva Reddy, learned counsel for the applicant and Mrs. K. Rajitha, learned Senior Central Govt., Standing Counsel for Respondents. Also the reply affidavit and the records have been perused carefully.

4. Counsel for the applicant placed reliance on the orders of this Tribunal in OA Nos 573/2017 as well as in 453/2019. In both the cases, the Respondents Department was directed to consider the case of the applicant for grant of compassionate allowance. It is also contended by the counsel for the applicant that, the applicant was on unauthorised leave, which cannot be construed as misconduct as per the judgments in both the OA relied upon by him.

5. The Counsel for the Respondents argued that request for Compassionate Allowance was made after nine years since penalty order of removal from service was issued on 07.12.2006. Learned Standing Counsel for the Respondents further argued that, as per Rule-41 (1) of the CCS (Pension) Rules, which reads as under :-

OA/021/00656/2019



41. Compassionate allowance

(1) A Government 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 the amount of [Rupees three hundred and seventy-five](Rupees one thousand two hundred and seventy five from 1-1-1996 see GID below Rule 49) per mensem.

6. It is the contention of the counsel for the Respondents that only if the case is deserving of special consideration, Compassionate Allowance can be ordered but in the above case, since no mention of compassionate allowance was ordered in the penalty order issued by the Disciplinary Authority, it is presumed that there was no case for Compassionate Allowance.

7. As per Government of India decisions, each case for compassionate allowance has to be considered on merits and a

OA/021/00656/2019

conclusion has to be reached on the question whether there were any



such extenuating features in the case as would make the punishment awarded, though it may have been necessary in the interests of Government, unduly hard on the individual. In considering this question it has been the practice to take into account not only the actual misconduct or course of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered. Where the course of misconduct carried with it the legitimate inference that the officer's service has been dishonest, there can seldom be any good case for a compassionate allowance. Poverty is not an essential condition precedent to the grant of compassionate allowance, but special regard is also occasionally paid to the fact that the officer has a wife and children dependent upon him, though this factor by itself is not, except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance.

8. In view of the fact that detailed decisions of Government of India exist in this regard, it would be appropriate, if the Respondents Department reconsiders the applicant's case for compassionate

OA/021/00656/2019



allowance in accordance with Rule-41 of CCS (Pension) Rules, existing instructions and as well as the orders in OA Nos 573/2017, dated 20.07.2018 and 453/2019, dated 29.07.2019 and pass a detailed speaking order within a period of three months from the date of receipt of certified copy of this order.

9. Original Application is disposed of accordingly. No order as to costs.

(NAINI JAYASEELAN)
ADMINISTRATIVE MEMBER

vi.