

Central Administrative Tribunal
Principal Bench

O.A. No. 866 of 1999

(7)

New Delhi, dated this the 23rd October, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Jarnail Singh,
S/o late Shri Duman Singh,
R/o 1000, Sector-12,
R.K. Puram,
New Delhi-110022. .. Applicant

(By Advocate: Shri Amrit Bhalla)

Versus

1. Union of India through
the Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Secretary,
Dept. of Personnel & Training,
Ministry of Personnel, Public Grievances
& Pensions,
New Delhi-110001. .. Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER (Oral)

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents orders dated 14.7.97 (Annexure A-1) and 13.2.98 (Annexure A-2) and prays for direction to Respondent to grant him compassionate allowance under rule 41 CCS (Pension) Rules, 1972 after treating him ^{to} have been dismissed/removed from service.

2. We have heard applicant's counsel Shri Amrit Bhalla and respondents' counsel Shri V.S.R.Krishna.

3. Applicant was charge sheeted on 26.8.83 on the allegation that while working as Under Secretary in Freedom Fighters Division, Ministry of Home

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Affairs, he committed serious irregularities in sanctioning of pension to 15 persons purported to be freedom fighters under Freedom Fighters Scheme, 1972. Prior to issue of charge sheet applicant was placed under suspension on 31.7.82 and that suspension order was revoked by subsequent order dated 17.2.84. (9)

4. Applicant retired on 31.8.86 on attaining the age of superannuation and was sanctioned provisional pension w.e.f. 1.4.86 onwards.

5. Departmental Proceedings were deemed to be proceedings under Rule 9(2)(a) CCS (Pension) Rules, 1972 and after holding an enquiry, orders dated 26.5.88 were passed by the President after consulting UPSC, withholding the full monthly pension and the entire amount of DCRG on a permanent basis.

6. Applicant challenged the aforesaid order dated 26.5.88 in O.A. No. 1326/88, which was dismissed after hearing both parties vide order dated 21.7.89.

7. Against the aforesaid order applicant filed Civil Appeal No. 5158/92, which was dismissed by the Hon'ble Supreme Court by a detailed order dated 3.12.92 (Annexure A-6).

8. Thereafter applicant submitted his representations to Respondents from time to time. Applicant's representation dated 28.2.97 for sanction of compassionate allowance under Rule 41 CCS (Pension) Rules was rejected by impugned order dated

14.7.97. Meanwhile applicant had submitted a letter dated 6.1.98 seeking review of the penalty which was rejected vide letter dated 13.2.98 (Annexure A-2).

9. The main ground advanced by applicant's counsel Shri Bhalla is that the Disciplinary Proceedings which commenced with the issue of Charge Sheet dated 26.8.83 were inordinately delayed, and had they concluded before applicant retired on 31.3.86 even if he had been dismissed or removed from service thereby, he would still have been eligible for grant of compassionate allowance, and hence Rule 9 CCS (Pension) Rules should not be made a ground to reject his prayer for compassionate allowance under Rule 41 CCS (Pension) Rules.

10. He has also emphasised that denial of pension and DCRG benefits to him has rendered without any source of income in these hard days, which has affected his right to livelihood under Article 21 of the Constitution of India.

11. In this connection Shri Bhalla has also invited our attention to Rule 88 CCS (Pension) Rules which empowers any Ministry/Department of Government of India to relax if it is satisfied that undue hardship has been caused in any particular case.

12. Keeping the above submissions in view we dispose of this O.A. that in the event applicant makes a self-contained representation to respondents taking the above points within two weeks from today, for grant of compassionate allowance to him

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Respondents should consider the same sympathetically but in accordance with rules and instructions and pass a detailed, speaking and reasoned order on the same, under intimation to applicant within three weeks from the date of receipt of such representation. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

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(S.R. Adige)
Vice Chairman (A)

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