

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

CCP 187/92 in
OA 1132/91

Date of decision: 29.4.1993

Smt. Kamla Sapra & Anr. ... Petitioners.

Versus

Shri Raj Kumar,
General Manager,
Northern Railway,
Baroda House,
New Delhi & anr.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. B.N. DHOUDIYAL, MEMBER(A).

For the Petitioners. ..Shri B.B. Raval,
Counsel.

For the Respondents. ..Shri P.S. Mahendru,
Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The complaint in this case is that the directions in O.A. No.1132/91 decided on 5.12.1991 have been disobeyed. The directions are to pay to petitioner No. 1 in the O.A., the wife of the Government employee, all dues of provident fund, gratuity and other benefits within a period of three months from the date of receipt of a copy of the judgement. There is a further direction to consider providing suitable appointment to petitioner No. 2 sympathetically on compassionate grounds within a period of three months from the date of receipt of a copy of the judgement. The next direction is not to evict the petitioners from the quarter till the payments of provident fund, gratuity and other due benefits of late Shri Ram Lal Sapra are paid to the

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petitioners and till petitioner No. 2 is considered sympathetically for suitable compassionate employment. It is further made clear that the petitioners shall be liable to pay only the normal licence fee according to Rule (4). There is a further direction that the quarter shall be allotted to petitioner No. 2 on her appointment.

2. It is not disputed that the amounts directed to be paid to petitioner No. 1 were not so paid within the time granted by the Tribunal necessitating to invoke the jurisdiction under the Contempt of Courts Act. It is during the pendency of these proceedings that steps were taken to pay the amounts. Whereas the petitioner takes the stand that the amounts paid are not adequate, the respondents have taken the stand that what has been paid is adequate. So far as the provident fund is concerned, it is stated that the petitioner was entitled to a sum of Rs.5295/- and provident fund (bonus) of Rs.7556/-. Mere assertion of the petitioner that these figures are not accurate does not help us to hold that the amounts found due by the respondents are not accurate. Hence, we accept the statement of the respondents. A sum of Rs.5046/- has been deducted towards electricity charges. The respondents have relied upon the special bill for electricity consumption produced along with

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the reply which shows that the amount found due by way of electricity charges comes to Rs.5046/-. There is no good reason to disbelieve this statement. The respondents were, therefore, entitled to deduct the said amount. So far as the gratuity is concerned, it is stated that the deceased employee was entitled to Rs. 7884/-. Though the petitioner says that the amount is not accurate, no specific materials having been placed in support of her case, there is no good reason to reject the statement of the respondents about the accuracy of the amount of DCRG. A sum of Rs.7810/- has been deducted towards the rent. The Tribunal had directed that only the normal licence fee should be deducted from the amounts due to the petitioner. The respondents have placed material showing rate of rent during the different period as per Annexure R-2. There is, therefore, no good reason to disbelieve the statement of the respondents that the deduction of the normal licence fee made in this case is accurate. We are, therefore, satisfied that all the directions for monetary benefits made in the O.A. have been duly complied with.

3. The only other main direction which requires to be considered is about granting compassionate appointment to the daughter. The direction in terms says that the respondents shall consider providing suitable appointment to petitioner

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No. 2 sympathetically on compassionate grounds within a period of three months. We have carefully read the judgement. The direction has to be understood as a direction to consider the case of the petitioner for granting compassionate appointment to the petitioner No. 2 as sympathetically as possible. The Tribunal has not issued a positive mandamus directing the respondents to give an appointment to the daughter. Hence, the respondents are well within their right in not giving appointment to the petitioner on sympathetic grounds. The case of the petitioner was considered but they have not found it possible to accord to her the benefit of compassionate appointment. We are satisfied from the stand taken by the respondents and the orders produced before us that there has been consideration of the case of the petitioner for compassionate appointment. Shri Rawal, learned counsel for the petitioner, however, submitted that if we read the judgement as a whole, though the ultimate decision is only to consider the case of the petitioner for compassionate appointment, it would become clear that there is virtually a mandamus to grant appointment on compassionate ground. All that can be said on perusing the entire judgement is that the Tribunal has highlighted the plight of the widow necessitating a look into her case for granting compassionate appointment. The direction cannot be understood as a positive mandamus to give an

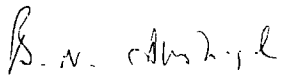
appointment on compassionate ground. Hence, it is not possible to say that the respondents were bound to grant compassionate appointment. They were only bound to consider the case of the petitioner for compassionate appointment. That they have done. They have passed a speaking order in this behalf, a copy of which has been produced in this case. As there has been consideration of the case, which was directed by the Tribunal, we would not be justified in probing further on merits of the case of the petitioner. Hence, there is no violation of the direction in regard to the consideration of the case of the petitioner for compassionate appointment.

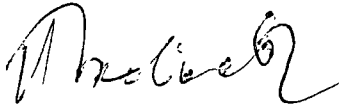
4. So far as the direction regarding allotment of the quarter is concerned, it is obvious that it was dependent on the petitioner No.2 being given compassionate appointment. If the appointment was given, there was an obligation to allot the very same accommodation to petitioner No.2. The direction does not have effect as compassionate appointment is not given. The other direction is that the petitioner should not be evicted from the quarter until consideration of the case of the petitioner No.2 for compassionate appointment. It is nobody's case that the petitioner was evicted from the quarter before consideration for compassionate appointment.

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Hence, we are satisfied that no action under the Contempt of Courts Act is called for.

5. Though these proceedings are being dropped, we find that there has been considerable delay in complying with the directions, as aforesaid. The directions were given having regard to the plight of the poor widow. That being the position, the respondents ought to have complied with the directions given in the judgement within the time granted by the Tribunal with utmost expedition. As there has been delay on the part of the respondents in complying with the directions of the Tribunal, we consider it just and proper to compensate the petitioner by awarding costs. The CCP is disposed of with the direction that the petitioner shall be entitled to cost of Rs.1000/- which shall be paid within a period of two months from this date, failing which it will carry interest @ 12% per annum from this date of the judgement.


(B.N. Dhoundiyal)
Member (A)


(V.S. Malimath)
Chairman

'SRD'