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Central Administrative Tribunal
Principal Bench, New Delhi.

O.A. No.2615 of 1992

21st day of December, 1993

Shri P.T. Thiruvengadam, Member

Smt. Usha Devi,
W/o Shri Bhikan Singh,
r/o 561/37, Onkar Nagar,
Tri Nagar, Delhi-110035.

Applicant

By Advocate Shri B.L. Babbar, Proxy for
Shri B.S. Charya.

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Chairman,
Ordnance Factory Board,
Ministry of Defence,
10-A, Auckland Road,
Calcutta-700001.
3. The General Manager,
Ordnance Factory Board,
Muradnagar,
Distt. Ghaziabad (U.P.)

Respondents

By: Shri R.N. Mongia, UDC/OFM,
departmental representative.

(Oral) O R D E R

Shri P.T. Thiruvengadam, Member

The husband of the applicant was employed with Respondent No.3 as Labour 'B' w.e.f. January, 1976. It is claimed that he had served in the Army as Sepoy for 8 years, prior to joining the Respondent No.3. The applicant was given quasi-permanent status w.e.f. 1.1.1980. On 26.6.1982, he had attended to his night duty shift and after that he did not return to his ^{house} on the morning of 27.6.1982. Since he could not be traced, [^] a report was

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lodged with Police Station, Muradnagar, District Ghaziabad on 19.7.1982. Ultimately, in the Police report recorded on 21.3.1989, Muradnagar Police Station, it was concluded that the applicant's husband remained untraced.

2. In the meantime, the department had launched disciplinary proceedings for unauthorised absence and the applicant's husband stood removed from service vide Order dated 17.11.83. These orders were moderated to the penalty of compulsory retirement vide F.O. No.870 dated 24.4.1990. Subsequently, based on the Police report that the applicant's husband was not traceable, the penalty orders were revoked in terms of O.F.B1 letter No.427/OFB/I/8 dated 21.2.1991 and he was treated as missing/untraceable w.e.f. 27.6.1982. This factory order No.570 was published on 6.4.1993. This order states that the family of the missing person is entitled to get the terminal benefits as admissible in accordance with the relevant instructions.

3. It is the case of the applicant that her request for compassionate appointment has been rejected recently vide letter No.A-8/CA/Secretariat dated 20.11.1993. The order of rejection states that after taking into account the family circumstances and the relevant instructions on the subject of compassionate appointment, the request for appointment stands rejected.

4. This O.A. has been filed with a prayer to direct the respondents to give appointment to the applicant on compassionate grounds and for payment of dues lying with the respondents, along with interest.

5. During the arguments, the learned counsel for the applicant mentioned that in a similar case of the widow of one, Shri Sita Ram, who was also missing since

17.11.1983, compassionate appointment has been sanctioned recently. The indigent circumstances of the applicant in this O.A. are, in no way, less than in the other case and hence, non-consideration of the request for compassionate appointment is discriminatory. Also, the rejection letter is a bland one and does not show any application of mind. It is the case of the applicant that the trauma in this case is more severe than even in a death case since the applicant has had to endure uncertainty right through.

6. As regards the dues to be paid to the applicant, she is not in a position to state what amount of gratuity or insurance amount, or family pension is due to her in the circumstances of the case. Equally, the respondents in their very brief counter reply, have not touched on the aspect of dues excepting to enclose F.O.570 of 6.4.1993 wherein it has been stated that the family ~~pension~~ of the missing person is entitled to the terminal benefits as admissible. What these terminal benefits are, have not been spelt out.

6. In the circumstances of the case, the only direction that could be issued are:-

- (a) the respondents should reconsider the request ~~for~~ compassionate appointment by the applicant keeping in mind the circumstances of the family and the consideration shown in a similar case of Shri Sita Ram, who has been missing from 1983. This case should not be treated as a delayed case since the Police report about the missing person~~s~~ was finally available in 1989 and the applicant had been regularly representing to the respondents, and

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(b) the respondents should consider what are the dues to be paid to the family by way of death gratuity, insurance amount as per the Central Govt. Employees Insurance Scheme, 1982, Family Pension, if eligible and any other dues. If the applicant is not eligible for family pension for the reason that the missing employee had been contributing to the C.P.F. Scheme, the payment to be now made should include interest upto the date of payment.

7. The respondents are further directed to give a detailed letter to the applicant within two months from the receipt of this order, explaining the position with regard to each item of dues as well as the effect of reconsideration of the representation for compassionate appointment.

8. The O.A. is disposed of on the above lines with liberty to the applicant to approach the Tribunal in case she is aggrieved by the action of the respondents. No costs.

P. J. Thiruvengadam

(P.T. Thiruvengadam)
Member(A)

SLP