

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(ALLAHABAD THIS THE 22nd DAY OF July, 2014)

Present

HON'BLE MS. JASMINE AHMED, MEMBER (J)
HON'BLE MR. U. K. BANSAL, MEMBER (A)

Misc. Execution Application No. 15/12

In

Original Application No.633 Of 1998

(U/S 19, Administrative Tribunal Act, 1985)

1. Smt Malti, Wife of Late Rama Shankar Singh, Aged about 50 years.
2. Surya Kumar, S/o of Late Rama Shankar Singh, Aged about 22 years.
3. Shakti, S/o Late Rama Shankar Singh, Aged about 20 years.

-----All are resident of Village - Rasulpur, Post Khajraul, District-Mirzapur.

.....Applicants

VERSUS

1. Union of India through Secretary of Communication, Govt. of India, Department of Posts, New Delhi.
2. Sr. Superintendent of R.M.S., 'A' Division, Allahabad.
3. The Sub Records Officer [Higher Grade], Railway Mail Service, 'A', Division Varanasi.

.....Respondents

Advocates for the Applicant:- Shri O.P. Gupta

Advocate for the Respondents:- Shri R.K. Srivastava

Jasmine Ahmed

ORDER

(DELIVERED BY HON'BLE MS. JASMINE AHMED, MEMBER (J))

Shri O.P. Gupta, learned counsel for the applicant and Shri R.K. Srivastava, learned counsel for the respondents.

2. This is an Execution Application preferred by the applicant for execution of order dated 2nd January, 2006. The issue involved in this Original Application was related to explanation in respect of an alleged forged withdrawal to the tune of Rs.28000/- and because of that the applicant was served with an order dated 17.04.1998, asking him to furnish his explanation. Again a reminder was given to the applicant but as per the respondents he did not care to furnish his reply to the same and he being on casual basis, his services were terminated. Counter, Rejoinder was exchanged and a detailed order was passed by this Tribunal allowing the Original Application. The Operative portion of the Original Application is stated below:-

7). The respondents are patently in error in terminating the services of the applicant. The applicant cannot be blamed for his non-furnishing the explanation. Hence, the Original Application is allowed.

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8.) The respondents are directed to reinstate the applicant in the same status as he was prior to the termination of his services w.e.f. 01.06.1998. The applicant would be entitled to 50% of the back wages for the period from 01.06.1998 till the date of reinstatement. This order shall be complied with, within a period of four months from the date of communication of this order. No costs.

3. Against this order the respondents preferred a Writ Petition No. 36611 of 2006 in which stay order was granted against the order of this Tribunal. While the writ petition was pending the applicant expired. After the expiry of the deceased Rama Shankar Singh, his widow and his two sons gave information about the death of the applicant in the office of respondents, but the respondents did not impleaded the legal heirs in the writ petition. Ultimately, after expiry of one year from death, applicants filed abatement application before the Hon'ble High Court. Thereafter, the writ petition was dismissed by the Hon'ble High Court as abated for want of steps and vacated the interim order granted against the order passed by this Tribunal. The order dated 2nd Jan, 2012 passed by the Hon'ble High Court, reads as under :-

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Case :- WRIT-A No. – 36611 of 2006

Petitioner :- Union of India And Others

Respondent:- Rama Shanker Singh And Another

Petitioner Counsel :- K.C. Sinha, A.S.G.I.

Respondent Counsel:- Avnish Tripathi, S.C.

Hon'ble Sheo Kumar Singh, J.

Hon'ble Pankaj Naqui, J.

Sri Rakesh Sinha, learned advocate who appears for the petitioners submits that after receipt of application for abatement dated 12.09.2010, he wrote letter to the concerned department but no one responded.

Sri Sinha, further submits that on 20.12.2011 and 25.12.2011, letters were sent but no instruction has been received as yet and no application has been moved and therefore, he has no option. Stop order has already been passed by this Court on 8.12.2011 and therefore, this Court is also left with no option but to dismiss this petition being abated.

In view of above, writ petition is abated for want of steps. Interim order, if any stands discharged.

Order Date :- 2.01.2012

4. It is seen from the order dated 2nd Jan, 2012 both the counsel's for parties were present. After that the respondents have filed a Recall Application against the order dated 2nd Jan, 2012, passed by the Hon'ble High Court and on 26.09.2012 an order has been passed by the Hon'ble High Court, which is reads as under:-

Case No. – 29

Case:- WRIT-A No. – 36611 of 2006

Petitioner :- Union of India And Other

Respondent :- Rama Shanker Singh And Another

Petitioner Counsel:- K.C. Sinha, A.S.G.I., Deepak Verma, Rakesh Sinha, S.K. Rao

Jasmine Ahluwalia

Respondent Counsel :- Avnish Tripathi, O.P. Gupta, S.C.

Hon'ble Sheo Kumar Singh, J.

Hon'ble Virendra Vikram Singh, J.

List the matter before appropriate Bench as and when the Bench is constituted.

Order Dated :- 26.09.2012

5. It is seen from the date of the order passed by the Hon'ble High Court on 26.09.2012 that the writ petition was dismissed on 2.01.2012 and the Recall Application has been filed by the respondents on 26.09.2012. The respondents have taken more than 8 months to file the Recall Application before the Hon'ble High Court.

6. After the writ petition has been dismissed by the Hon'ble High Court the legal heirs of the deceased applicant have filed this Execution Application praying for execution of the order dated 2nd Jan, 2006 passed by this Tribunal. The counsel for the respondents objected to this and stated that Recall Application is still pending before the Hon'ble High Court. Hence, requested not to entertain this Execution Application.

8. Heard the rival contentions of both the parties, perused the documents and orders passed by the Hon'ble High Court. After perusal of the documents, it is our considered view, that after

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dismissal of the writ petition by the Hon'ble High Court within one year this present Execution Application has been filed alongwith a Delay Condonation Application where it has been stated that after the dismissal of writ petition, the applicants in this Execution Application preferred representations before the respondents on 6.02.2012 and 12.04.2012 for compliance of the order passed by this Tribunal dated 2.01.2006. As the respondents did not take any action for compliance of the order of this Tribunal the applicant has filed this Execution Application on 16.07.2012.

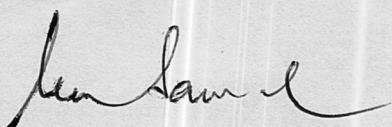
9. The scenario before us today is that the writ petition has been dismissed by the Hon'ble High Court on 26.09.2012. It is almost two years have lapsed after the dismissal of the writ petition. Hence, in this eventuality, the respondents ought to comply with the order passed by this Tribunal on 2nd Jan, 2006. The applicant has already expired, so the question of reinstatement which was granted by this Tribunal does not sustain, only the payment of back wages to be given by the respondents.

10. Accordingly, the respondent's particularly respondent no. 2 is directed to pay arrears of wages from 1.06.1998 till the death of the

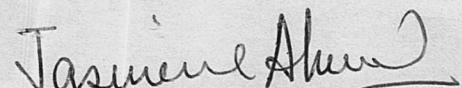
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deceased i.e. 7.07.2009 and also other retrial benefits to the applicants due as per rules in this Execution Application, which is admissible as per rules.

11. Taking into considerations the 26 years of continuous service rendered by Late Rama Shankar Singh, 50% back wages shall be given alongwith 9% interest to the applicants who are the legal heirs of the deceased and if the legal heirs of the deceased applies for compassionate appointment they may be considered as per rules for appointment to any suitable post according to the rules within a period of two months from the date of communication of the certified copy of this order. The Execution Application is allowed. No costs.



[U.K. Bansal]
Member-A



[Jasmine Ahmed]
Member-J

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