

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 27TH DAY OF MAY 2009)

PRESENT

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER- A**

**ORIGINAL APPLICATION NO. 1281 of 2001.
(U/S 19, Administrative Tribunal Act, 1985)**

Smt. Urmila wife of late Narendra Kumar Naresh, Resident of
Rajkiya Unnayan Basti, P.O. National Sugar Institute,
Kalyanpur, Kanpur Nagar.

.....Applicant

By Advocate : Shri R.K. Shukla

Versus

1. The Union of India, through the Secretary, Ministry of Defence, Department of Defence Production, Govt. of India, New Delhi-11.
2. The Secretary, Ordnance Factory Board, 10-A, Shaheed Khudi Ram Bose Road, Calcutta-1.
3. The General Manager, Ordnance Factory, Kalpi Road, Kanpur.

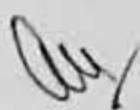
.....Respondents

By Advocates : Shri Himanshu Singh

ORDER

(Delivered by: JUSTICE A.K. YOG - JUDICIAL MEMBER)

Heard Shri R.K. Shukla, Advocate appearing for the applicant and Shri Himanshu Singh, Advocate appearing for the Respondents. Perused the pleadings and documents on record.



2. At the outset, we may place on record that applicant/Smt. Urmila is the wife of late employee Narendra Kumar Naresh. The applicant has claimed following reliefs:-

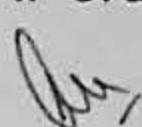
"8. Relief Sought

In view of the facts and grounds mentioned in paragraph No. 4 and 5, above, the applicant prays for the following relief(s):

- (i) *to issue a writ order or direction in the nature of certiorari quashing the impugned order of punishment dated 29.7.2000 imposing penalty of compulsory retirement.*
- (ii) *To issue a writ order or direction in the nature of mandamus commanding the respondents to reinstate the deceased back in service with effect from the same date from which he has been compulsorily retired with all consequential benefits thereof such as arrears of back wages, continuity in services and other pensionary/retrial benefits etc. as if he was died while in service.*
- (iii) *To issue any other suitable writ, order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.*
- (iv) *To award cost of the petition throughout".*

3. Applicant's husband had died before filing of O.A. Relief of reinstatement if deceased is apparently misconceived. However, a complete reading of the relief shows that the applicant is claiming writ of mandamus to direct the respondents to pay pecuniary/consequential benefits which may be granted to 'Legal Representative'- treating the employees in notional service- if he succeeds.

4. Be that as it may be, we do not find force to the claim of pecuniary benefit inasmuch as nothing has been shown on record that there is not basis for making claim of pecuniary benefits even if orders of punishment (compulsory retirement



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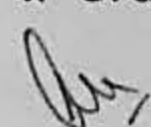
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4. Be that as it may be, we do not find force to the claim of pecuniary benefit inasmuch as nothing has been shown on record that there is not basis for making claim of pecuniary benefits even if orders of punishment (compulsory retirement



from service was passed) against the husband of the applicant is quashed.

5. Learned counsel for the applicant, however, referred to para 4 of the counter affidavit wherein respondents have stated that late Narendra Kumar Naresh was appointed as unskilled labour under Schedule Tribe Quota w.e.f. 11.2.1981 In Ordnance Factory, Kalpi Road, Kanpur. Applicant cannot be granted relief- on incomplete pleadings, viz details to ascertain the qualifying service rendered by the applicant are missing

6. In the counter affidavit, on the other hand, respondents stated that Narendra Kumar Naresh was awarded penalty of reduction of pay by two incremental stage for one year without cumulative effect vide order dated 29.01.1998 for being absent from duty during 9.5.1997 to 30.7.1997 (83 days) without prior sanction of leave. He was also awarded punishment of reduction of pay by two incremental stages with cumulative effect vide order 31.10.1998 for absenting from duty w.e.f 17.11.1997 to 1.2.1998 (77 days) without prior sanction of leave. Again he was awarded punishment for stoppage of increment for one year without cumulative effect vide order dated 24.8.1999 for being absent from duty w.e.f 4.3.1999 to 14.4.1999.

7. On going through the pleadings and other documents on record including the counter affidavit filed by respondents, it

W/

transpires that the applicant was suffering from long illness for which he was receiving medical treatment. We find that the applicant had even submitted application dated 2.2.2001 (Annexure RA-II) filed alongwith rejoinder to show that she had claimed compassionate appointment in favour of her son. He was aged about 18 years in the year 2001.

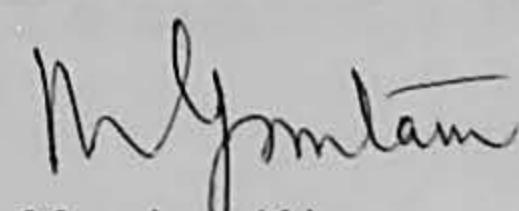
8. Considering the background, viz the Applicant was suffering from prolonged illness and receiving treatment in different hospitals (including Railway Hospital) and even paid T.A. & D.A. inability to join Disciplinary proceedings is understandable. From the impugned order dated 29.7.2000 (Annexure A-1) it is clear that husband of the applicant never appeared/participated in the Disciplinary proceedings. Husband of the applicant, *prima facie* prevented by sufficient cause for various reasons viz- constant on finance and physical condition, etc. Relief sought in O.A. is coined by 'Advocate' not the applicant and hence it is to be read logically.

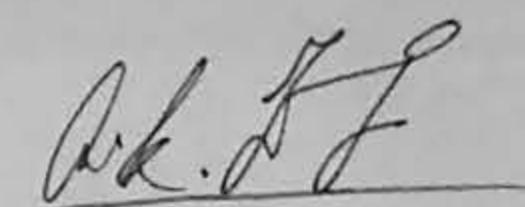
9. In that view of the matter, we find that the order of compulsory retirement by way of punishment passed on ex parte proceedings should not be sustained and deserves to be set aside.

10. In view of the above, impugned order dated 29.7.2000 (Annexure A-1/Compilation I) is hereby set aside with direction to the concerned authorities to reconsider the request of the

applicant for grant of pecuniary benefits in accordance with law including that of arrears of salary/Applicant's husband would have received deeming him in service prior to his death and also entitled for family pension, gratuity etc. for which applicant may file certified copy of the order before Concerned Authority within 6 weeks and said Authority shall consider the request of the applicant, (as directed above), within 3 months and pass appropriate reasoned and speaking orders. Decision taken shall be communicated to the applicant forthwith.

11. O.A. is finally disposed of subject to above directions/observations. No costs.


Member (A)


Member (J)

Manish/-