

Reserved on 05.09.2013
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

Original Application No. 1582 of 2004

Allahabad this the, 12th day of Sept, 2013

Hon'ble Mr. Justice S.S. Tiwari, Sr. J.M./HOD
Hon'ble Ms. Jayati Chandra, Member (A)

Smt. Shashi Bala wife of Late Ram Autar, Aged about 60 years, C.M. Ist P.C. No. 425, PPO No. C/FYS/18586/2002, resident of Mohalla Baru Zai, Near Harish Chandra Higher Secondary School, Shahjahanpur (U.P.).

Applicant

By Advocate: Sri R.K. Pandey

Versus

1. Union of India, through its Secretary, Ministry of Defence, Government of India, New Delhi.
2. The General Manager, Ordnance Clothing Factory, Shahjahanpur.
3. The Director General, Ordnance Factories, Ordnance Equipment Factories, Group Head Quarters, G.T. Road, Kanpur.
4. The Additional Director General, Ordnance Factories, Ordnance Equipment Factories, Group Head Quarters, G.T. Road, Kanpur.

Respondents

By Advocate: Sri Ajay Singh

ORDER

By Hon'ble Mr. Justice S.S. Tiwari, Sr. J.M./H.O.D.

By the instant O.A., following relief(s) have been claimed by the applicant: -


- "(i) To issue order or direction to declare the Orders dated 14.7.2004 (Ann. No. - I) and 4.9.2004 (Ann. No. - II) passed by Respondents No. 2 and 3 as null and void respectively.



- (ii) To direct the respondents to pay the amount of pay and allowances for the period of suspension w.e.from 5.3.1995 to 30.4.97 with all other consequential benefits of the applicant's late husband Ram Autar, to the applicant with interest at the prescribed rate.
- (iii) To pass such other and further order which this Hon. Court may deem fit and proper in the circumstances of the case."

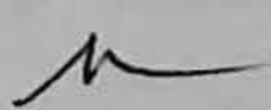
2. The brief facts of this O.A. are as follows: -

That the husband (Late Ram Autar) of the applicant, while working as Chargeman under the respondent No. 2, was placed under deemed/continued suspension w.e.f. 30.04.1997 due to involvement in a criminal case under Section 498 A, 304-B I.P.C. and Section 3/4 of Dowry Prohibition Act. Subsequently, the suspension order of Ram Autar was revoked and he was allowed to join vide order dated 04.04.1997 passed by respondent No. 3, which was communicated to him vide order dated 26.04.1997. Since Ram Autar was placed under suspension and disciplinary proceedings were pending against him, he was not paid all his dues after his retirement on 31.08.2002. Later on, Ram Autar was acquitted from all charges hence, he was entitled to be paid all his dues but, in spite of best efforts made by the applicant, dues were not paid to her. The applicant moved an application before the respondent No. 2 for giving the dues benefit of her husband to her but, no fruitful result



came out. The dues of Ram Autar have been restricted under the provisions of FR-54 B whereas the said provisions i.e. sub rule (2) of F.R. - 54 B entitles Ram Autar and consequently the applicant to get the benefits from the respondents. The applicant has wrongly been denied the benefits due to her husband by wrong interpretation of the provisions of Government of India's Orders (3) below F.R. 54-B. Hence, the present O.A. has been filed by the applicant mainly on the grounds that in view of the provisions of sub rule (2) of F.R.-54 B, the applicant is entitled to be paid the entire amount which was due to her husband for the period of suspension because the husband of applicant was acquitted from all the charges by Order of the Additional District Judge (Fast Track Court No. 4) dated 07.04.2004 in S.T. No. 1204/2003 and 1448/2003.

3. The respondents have filed the Counter Affidavit denying the allegations made by the applicant stating that Late Ram Autar was placed under suspension as he was under Police and Judicial custody from 05.03.1995 to 07.03.1995 due to his involvement in a criminal case under Section 498A, 304B IPC and 3/4 Dowry Prohibition Act. The criminal case pending against him was abated due to his death on 12.01.2003. The respondents are



justified in passing the impugned orders as Ram Autar was not entitled for the dues during the period of suspension. The Disciplinary Authority has rightly concluded that Ram Autar was not under suspension at the time of his death or conclusion of the court proceeding. It will not be justified to treat the period of police custody/suspension as a period spent on duty. Accordingly, the period of suspension w.e.f. 05.03.1995 to 30.04.1997 was ordered to be regularised as non-duty period under the provisions of Government of India's Orders (3) below F.R.-54B. The applicant has got no case and the O.A. deserves to be dismissed.

4. The applicant has placed reliance on documentary evidence, which is annexure A-1 to annexure A-4. On the other hand, the respondents have placed reliance on documentary evidence which is annexure CA-1 to annexure CA-6, filed on record.

5. We have heard the learned counsel for the parties and perused the documents on record.

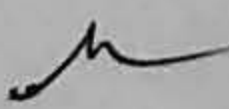
6. After hearing the learned counsel for the parties and after perusal of papers on record, following two issues are framed to be discussed for decision of this O.A.: -



{i} Whether Ram Autar was acquitted under the criminal case by the learned District & Sessions Judge, Shahjahanpur under Section 498A, 304B IPC and 3/4 Dowry Prohibition Act?


{ii} Whether the respondents are wrongly interpreting the provisions of Government of India's Orders (3) below F.R.-54B and thereby denying the dues to applicant?

7. As regards the first issue, it is apparent from the record that the criminal case S.T. No. 1204 of 2003 State Vs. Raju and others was pending against Ram Autar and his family members under Section 498A, 304B IPC and 3/4 Dowry Prohibition Act at P.S. Kotwali, District Shahjahanpur and S.T. No. 1448 of 2003 was pending against the present applicant- Smt. Shashi Bala and others under the aforesaid sections. A copy of the Judgment, passed in the aforesaid session trial has been filed by the applicant, which is annexure A-4 on record. Perusal of it shows that Ram Autar died during the pendency of the sessions trial before framing of charges by the Court, as admittedly, he died on 12.01.2003 and charges were framed against remaining accused persons on 08.09.2003 and 04.11.2003 respectively. The case pending against Ram Autar abated on account of his death before framing of the charges. According to the applicant, Ram Autar was also acquitted by the Sessions' Court along with other accused persons but, the record shows otherwise as there is no mention of Ram Autar in



the operative portion of the Order passed by the learned Additional Sessions Judge. The purpose of aforesaid omission is only to show that Ram Autar was not acquitted by the Court rather his case had abated. Thus, the contention of the applicant that Ram Autar was acquitted by Trial Court is not correct.

8. As regards the second issue, it has been contended by the learned counsel for the applicant that dues of applicant's husband have been restricted under the provisions of F.R.-54B whereas the said provision i.e. sub rule (2) of F.R.-54B clearly provides that where a Government servant under suspension dies before the disciplinary or the Court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid. On the other hand, learned counsel for the respondents has submitted that the applicant cannot get any benefit of the afore quoted provisions as Ram Autar died after the revocation of suspension order. In order to




appreciate the aforesaid provisions, a perusal of sub rule (2) of F.R. 54-B is necessary, which reads as under: -

"(2) Notwithstanding anything contained in Rule 53, where a Government servant under suspension dies before the disciplinary or the Court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled had he not been suspended, subject to adjustment in respect of subsistence allowance already paid."

A perusal of the aforesaid provision clearly shows that it is applicable only in the conditions that (I) the Government servant is under suspension and (ii) he dies before the disciplinary or the Court proceedings instituted against him are concluded. The facts, placed on record, show that the period of suspension of Ram Autar was from 05.03.1995 to 30.04.1997 and he died on 12.01.2003. Thus, it is apparent that he did not die during the period of suspension rather he died about six years later to his suspension. Thus, the aforesaid provision is not attracted in the case of Ram Autar. A perusal of annexure A-1, filed by the applicant, goes to show that she has been denied the dues of suspension period of Ram Autar by explaining the reasons. It may be quoted below: -

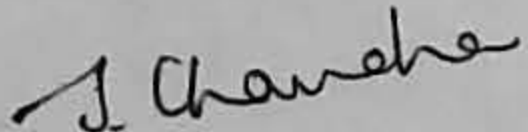
"... after considering the circumstances and related documents of the case, the undersigned has come to the conclusion that as Shri Ram Autar was not under suspension

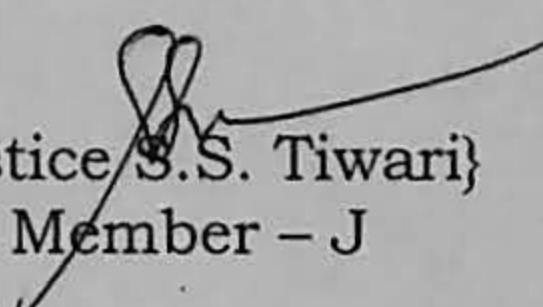


at the time of his death or conclusion of Court proceeding, it will not be justified to treat the period of police custody/suspension as a period spent on duty.

The above order has been confirmed by the higher authority vide order dated 04.09.2004 mainly on the aforementioned grounds. The applicant could not show on record that Ram Autar died during the period of suspension. Accordingly, this issue is also decided against the applicant.

9. In view of the above discussions, it is concluded that the applicant could not make out a case and the O.A., filed by the applicant, is devoid of merit. O.A is hereby dismissed. No order as to costs.


(Ms. Jayati Chandra)
Member - A


{Justice S.S. Tiwari}
Member - J

/M.M/