

OPEN COURT
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO. 472 OF 2004.

ALLAHABAD THIS THE 15TH DAY OF MAY 2007.

Hon'ble Mr. Justice Khem Karan, V.C

Smt. Bachchi Devi, wife of late Indra Mani Prasad Singh, aged about 40 years, Resident 735-B, D.L.W. Khalasi Patti, Varanasi.

.....Applicant

(By Advocates: Sri L.M Singh/Sri S. Kumar)

Versus.

1. Union of India through the General Manager (Personnel), D.L.W. Varanasi.
2. Chief Personnel Officer, D.L.W. Varanasi.
3. Deputy Director Establishment (N), Railway Board, New Delhi.

.....Respondents

(By Advocate: Sri Anil Kumar)

O R D E R

Applicant, widow of late Indra Mani Prasad Singh is praying that the removal order dated 13.6.1976 passed against her husband be quashed and respondents be commanded to grant family pension and pay, arrears of family pension w.e.f. 16.3.1982 as may be admissible under the Rules and also to pay the other retiral benefits together with interest at the rate of 18% per annum.

2. There is no dispute between the parties that husband of the applicant was in employment of the respondents. According to the applicant, her husband continued in service till, he expired in 1982 but according to the respondents, applicant's husband was removed from service vide order dated 13.10.1976. Against which, he preferred an appeal, which too was rejected, vide order dated 10.6.1977. There is no dispute that applicant was given compassionate appointment vide order dated 31.10.1986, on the special recommendation of Railway Board. What the applicant alleges is that neither her husband, nor she was ever informed or intimated about the order of removal during the period of lifetime, *nor she was ever informed about it, till 1999. She has gone to the extent to say that her husband was not served with the chargesheet etc. and nor was subjected to any formal disciplinary proceedings and so the question of passing the order of removal did not arise. She says that had her husband been removed from service as stated by the respondents, she could not have been given compassionate appointment. She says that she is entitled to family pension and other benefits as*

husband *been* *removed*

may be admissible under the Rules and respondents should be directed to pay the same together with arrears.

3. The respondents have also taken the plea that the O.A. is time barred. The applicant has filed application under section 21 for condonation of delay in filing the O.A.

4. The question is as to whether the delay in filing the O.A. can be condoned. This much is not disputed by the applicant that she came to know about the order of removal dated 13.10.1976 atleast with the receipt of letter dated 10.3.1999 (Annexure A-7). What she says that she preferred an appeal, copy of which is Annexure A-9. This appeal was preferred on 5.11.2002. When the applicant had come to know about the order of removal in 1999, she ought to have, if she had any right to challenge the same, come to the Tribunal within a period of one year from the date of communication of the factum of removal. The O.A. was filed as late as in 2004. The reasons given by her for condoning the delay do not appeal to me. After all what was the difficulty in preferring the appeal in the year 1999 itself and why the same was preferred in 2002? She was already in job and she had no difficulty to agitate the matter, if she was really aggrieved. It appears to me that she has unduly delayed in coming to the Tribunal and challenging the order. Moreover, there is a clear cut averment in the reply that the husband of the applicant had preferred an appeal and the same was rejected in the year 1997 itself.

6. Sri Anil Kumar, learned counsel for the respondents has stated that in ~~these~~ ^{the} circumstances, the applicant has no right to raise a grievance against the order of removal and realizing this fact, she did not come to the Tribunal for all these years. Reference to T.K. Lakshminipathy Vs. Director Directorate of Social Welfare and another, (1996) 32 Administrative Tribunals Case 401 is being made so as to say that such persons have no locus standi to challenge such order of removal. Since I am on the point of limitation, so I would not like to express my view as regards the merits of the case. I am not convinced that there are sufficient grounds for condoning the delay. So the O.A. is dismissed as time barred, but with no order as to costs.

*Jan 2007
15.5.07*

Vice-Chairman.

Manish/-