

RESERVED:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

REGISTRATION O.A. 1662 of 1992

Dated: 27 October, 1994.

Smt. Geeta Devi wife of late
Bhimcent Soora Dodrai, T.No. 1220/HT
Ordinance Equipment Factory Kanpur
at present resident of 16/11, Chimni Wala
Hata, Bhagwatdas Ghat, Kanpur Nagar ... APPLICANT.

(By Advocate Sri B.N. Rai)

VERSUS

Union of India through Director
Ordinance Equipment Factories
(O.E.F.C.) and others RESPONDENTS.

(By Advocate Sri S.C. Tripathi)

O R D E R

(By Hon. Mr. S. Dayal, Member(A))

The applicant has come to this Tribunal
under Section 19 of the Administrative Tribunals Act,
1985 seeking the following reliefs *by way of directions*
of the tribunal :

- (i) payment of arrears of salary and all other allowances due to her husband.
- (ii) payment of family pension to the applicant treating disappearance of the applicant in this case as death while on duty.
- (iii) payment of death cum retirement gratuity and Group Insurance amount as admissible under law to the next of kin of the government servant who dies while on duty.
- (iv) to give suitable employment to the applicant in Class-IV ~~under~~ under dying in harness Rules.

2. The facts narrated by the applicant in her application are that her husband was appointed as labour in Ordnance Equipment Factory, Kanpur and was regularised with effect from 24.9.1989. However, Annexure- 1A shows that the applicant was given appointment as casual labour by letter dated 19.9.1979 and Annexure- 1 shows that he was treated as regularly appointed on temporary post with effect from 6.3.1985. The applicant claims to be a legally wedded wife and has produced family identification card for OPD/ indoor treatment in which her name is mentioned as wife (Annexure-2) and a certificate given on behalf of the District Magistrate that she is the wife of the disappeared person Shri Bhimsent Soora Dodrai, (Annexure - 3). It is said that Shri Bhimsent Soora Dodrai went on duty on 4.4.1981 and did not return. The applicant went in search of her husband and came to know that he had become mentally insane and was sent to the combined hospital of the Ordnance factory where he was found by the applicant to be tied up by ropes on the bed. The applicant visited her husband everyday and on 14.4.1981 evening when she visited, she found that her husband had been discharged from the hospital without

any information to the applicant. She tried to trace out her husband and when she could not find him, she reported the matter by applications dated 18.4.1981 and 25.4.1981 to the S.S.P. (Annexure- 4) and the General Manager, Ordnance Equipment Factory, Kanpur (Annexure- 6). On a query from the management dated 5.9.1988 (Annexure- 7), the applicant produced a copy of her report dated 25.4.1981 to the police (Annexure- 8) and the final report of the police regarding their inability to ~~too~~ trace her husband dated 11.5.1990 (Annexure - 9). The applicant made a representation to the Factory Management on 17.8.1990 for payment of amounts due to her and for compassionate appointment and received a reply dated 23.8.1990 from the factory management that the services of the husband were terminated on 22.5.1981 and absented himself from 22.5.1981. He was only entitled to salary for the month of May and bonus for the year 1981-82 for which bills had been sent to Accounts office. He ~~has~~ also mentioned that the averment of the applicant that her husband disappeared after being discharged from the hospital on 14.4.1981 was false. By another letter dated 10.9.1990, the applicant was informed that her request for compassionate appointment could not be acceded to (Annexure- 11). The applicant has stated in paragraph L of the application that the documents showing the applicant's husband in service till 21.5.1981 were fraudulently and illegally manipulated ones.

3. The respondents in their written reply have stated that Sri Bhimcent Soora Dodarai, was appointed as Labourer-B on casual basis w.e.f. 24.9.1979. They have mentioned that he was appointed on temporary basis on 8.12.1980 and was kept on probation for 6 months. The respondents have mentioned that the applicant was admitted to the factory hospital on 4.4.1981 and was discharged on 14.4.1981. They have also mentioned that the applicant attended his duties upto 25.1.1981 and remained unauthorisedly absent from 22.5.1981. A registered letter sent to his address came back undelivered with the remark that the receiver was out for many days. It is mentioned that another registered letter was sent but was not received back. They have mentioned that his services were terminated under Rule 5(2) of the Central Civil Services (Temporary Service) Rules, 1965 vide factory order part-II No. 2207 dated 23.9.1982. They have ~~said~~ ^{stated} that the first representation/intimation was received from the wife of Sri Bhimcent Soora Dodrai on 1.8.1988. However, they have admitted to the receipt copies of applications dated 18.4.1981 and 25.4.1981 made by the applicant to the S.S.P. Kanpur ^{along with her letter dated 26-9-88.} It is further said that the Senior Medical Officer Incharge vide his letter dated 7.9.1988 had ~~stated~~ ^{confirmed} that Sri Whimcent Soora Dodrai was admitted in C.H. Kanpur on 4.4.1981 and was discharged from C.H. on 14.4.1981 declaring him fit for duty w.e.f. 15.4.1981. The respondents have stated that the application dated 12.7.1988

addressed to S.S.P. Kanpur reveals that G.D. is of 13.7.1988 ^{and} the police has submitted the report on 16.9.1988, therefore, the petitioner's contention is misconceived and contradictory. They have admitted that application dated 1.2.1989 was received from the petitioner and the competent authority decided that it was not deserving compassionate appointment. They have mentioned that another application dated 22.3.1990 was received from the applicant that her husband has been missing since 25.4.1981 which is contradictory to her earlier contention and it was decided in the negative. They have further stated that her application dated 21.5.1990 was considered and replied to on 13.8.1990 giving reasons for not ^{acceding} ~~acceding~~ to her request. It is mentioned that another application forwarded by the Additional Director General, Ordnance Factory, letter dated 10.8.1990 was received and in response to it, a letter dated 23.8.1990 was sent to the Ordnance Equipment Factory Headquarters giving comments and copy of which was endorsed to the Ministry. Another application dated 17.8.1990 was endorsed to the Ordnance Equipment Factory Headquarters and the Ministry in similar manner. Ordnance Equipment Factory, Headquarters have issued a letter to the petitioner on ^{10th February, 1990} ~~20.2.1990~~ in which the factory letter dated 23.8.1990 was quoted. They have said that the payment of outstanding dues was made to the petitioner on 28.5.1991 and the ^{possession} ~~possession~~ was intimated to the Ordnance Equipment Factory, Headquarters, vide letter dated

27.8.1991. It has also been stated that the Ministry of Defence has issued an order dated 2.1.1992 to the Ordnance Equipment Factory for appointment of petitioner on compassionate ground. The case was sent to O.F. Cell on 10.2.1992 even after this, other representations dated 3.2.1992 were received from the petitioner. It is mentioned ~~that the case of~~ that the case of the petitioner ^{was} still pending with the Ministry and a decision in this regard is still awaited and that a letter dated 24.12.1992 was issued to the Ordnance Factory Board and the Ordnance Equipment Factory, Headquarters.

4. They have clarified in the written reply that the husband of the applicant was appointed on Casual Basis w.e.f. 24.9.1979 for 89 days and was granted 5 extensions of 89 days after that. He was appointed on temporary basis w.e.f. 8.12.1980. The regularisation of Casual Appointments were made subject to the condition that the services were to be recorded as having started from the date of appointment on temporary basis. The respondents have admitted that the applicant is the wife of Shri Bhimcent Soora Dodrai vide paragraph No. 6 of the reply. They have mentioned that Annexure- 4 filed by the petitioner is dated 18.1.1981, whereas, she has alleged that her husband is missing from 18.4.1981 which is contradictory. They have also mentioned that the applicant had submitted a final report ~~dated~~

dated 16.9.1988 from several authorities along with her representation dated 26.9.1988 after a lapse of more than 7 years from the date of termination of service. They have said in paragraph no. 9 that after a Government employee is not traceable for a period of 7 years, he is deemed to have died and compassionate appointment can be given to dependents of the deceased employee. But, in the present case, the services were terminated before the missing report was received, hence he ~~has~~ ceased to be a Government Employee. They have mentioned that if the wife had made any report regarding the fact that her husband was missing, her case would have been covered under Government Report but no report/ representation was received from her before the termination of service of the employee. The respondents have mentioned that Sri Dodrai was discharged from the hospital on 14.4.1981 and was declared fit for duty. They have mentioned that they cannot confirm whether Sri Dodrai was handed over to his family or sent to his residence under security guard. They have further stated that since he was fit, there was no necessity of sending him under security guard. They have further stated that since the applicant's husband was not in service after 21.5.1981, it cannot be said that he died during his service due to his alleged disappearance and that the provisions of the Evidence Act is not applicable in this case.

5. The rejoinder affidavit filed on behalf

Of the applicant states that attendance of duty upto 21.5.1981 by the applicant's husband as well as sending on registered A.D. letters was a story which is false and cooked up. It has also been mentioned that the services of the applicant's husband could not have been terminated without any enquiry and that the order of termination is not annexed to the counter affidavit. She has denied that temporary service rules, 1965 were applicable to the confirm employees. She has mentioned that the matter of disappearance of her husband was reported to the factory authorities as well as police on 18.4.1981 and 25.4.1981. She has stated that the contents of para No. 3(e) to 3(m) are matters of record but the respondents have not filed any record which proves the falsity of the story of the respondents.

6. The counsel for the applicant Sri B.N. Rail as well as the counsel for the respondents Sri S.C. Tripathi were heard. The counsel for the applicant reiterated the facts and the grounds given in the application. He has also mentioned that no ~~proofs~~ of sending of registered letter, holding an enquiry since he was regular employee making of termination order and notice to the applicant before that have been given by the respondents. Besides,

the order is said to have been made from retrospective effect which is not permissible. The husband of the applicant was not terminated on the date from which he was missing. He has further pointed out that the services could not have been terminated in 1982 when regularisation was done in 1985, therefore, the termination order was fabricated. He cited the case of Charanjit Kaur Vs. Union of India and others, (1994) 2 UPLBEC, 907. He has cited this case to bring home the point that no investigation in such circumstances entitles the dependent not only to special family pension but also to compensation.

7. The counsel for the respondents on the other hand said that the case has been referred to higher authorities and the matter was pending. He has said that the applicant did not exhaust the departmental channel. He has said that all the dues have been given to the applicant. He has said that Sri Dodrai was not a regular employee because a ~~highly posted~~ officer in a high position is making counter affidavit ^{and has} stated it on oath. He said that the Doctor has certified that he was well and admitted that the patient was hospitalised in Mental Hospital. He has said that the decision by the respondents is taking a long time because of long well established channel in the department.


8. It is quite clear from the facts given that one of the two parties is trying to mislead the Tribunal. One would have thought that such an attempt would have been resorted to by the applicant. But ^{I have} ~~not~~ to say with a great deal of anguish

that the record suggests that this attempt has been made by the respondents in this case. In their reply dated 23.3.1990 (Annexure- 10 of the application), the respondents have stated that it was totally wrong that the applicant disappeared on or after 14.4.1981 because of insanity. It is said that the record of the factory shows that the applicant's husband was working in the factory till 21.5.1981. However, latter in their counter affidavit, the respondents have admitted that the applicant remained in the hospital from 4.4.1981 to 14.4.1981. The respondents have tried to cast a doubt on the reporting of disappearance of the husband of the applicant to the police and the factory authorities on 18.4.1981 and 25.4.1981. However, the applicant has produced a certified photo copy from the records of the Superintendent of Police which was dated 25.4.1981, reporting about the disappearance of her husband from the hospital on 14.4.1981. In this photo copy a mention has been made about the application dated 18.4.1981 also. This leaves no doubt that the applicant reported the matter to both the police as well as the factory for which she has produced copies (Annexure- 6).

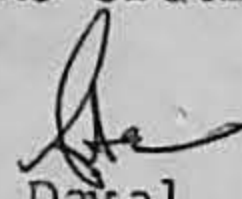
9. It has been suggested on behalf of the respondents that the applicant had made claims for arrears of any dues and for compassionate appointment in the year 1988 only. However, Section- of the Evidence Act raises a presumption of

death only after 7 years. The respondents have admitted that the dependents of persons who disappeared while in service were entitled to compassionate appointment only after a period of 7 years which is the contention based on the above mentioned Section of the Evidence Act. Therefore, the applicant became legally entitled to raise the claim of payment of dues as well as giving of compassionate appointment only for 1988.

10. It has been stated on behalf of the Respondents that the husband of the applicant was no longer in service when he disappeared and as a dependent of a disappeared ex-employee, the applicant had no rights. The facts shows that the order of termination of services was passed on 23.9.1982. It is also quite clear that no enquiry was made before termination. The respondents have stated that the order of termination was made under Section 5 of the Central Civil Services (Temporary Service Rules), 1965, without ^{producing any} order of termination. ~~was produced before him~~. This was not a case in which a discharge simplicitor would have been resorted to. Besides ~~an~~ order of termination is given retrospective effect which makes it invalid, therefore, the order of termination has to be treated as ~~'non est'~~ in this case. The husband of the applicant was, therefore, a Government Servant in service at the time of his disappearance. The presumption of death will operate w.e.f. 18.4.1988.



11. In view of the findings given in last ~~two~~ three paragraphs, the respondent no. 1 is directed to give all the dues to which the applicant is entitled to under the ~~existing~~ rules treating her husband to have died on 18.4.1988. The respondent no. 1 is also directed to give suitable employment to the applicant in Class-IV as dependant of an employee who dies in harness, and in addition thereto, a compensation of Rs. 50,000/- shall be paid to the applicant ^{as ex gratia payment} for denial of her rights so far. The compliance of the directions in this paragraph shall be made within a period of 3 months from the date of communication of this order by the applicant to the respondent no. 1. There will be no order as to costs.


S. Dayal
Member (A)

(n.u.)

R-61
35-5-ab (618)
Recd.
06/06/96

940
7/4/96

SEC.XI

D.NO.984/95/XI
SUPREME COURT OF INDIA
NEW DELHI.
Dated: 21st May, 1996

URGENT

From;

The Registrar
Supreme Court of India
New Delhi

S.O. (J)

For M. A. Keep on Record

06.06.96

TO:
THE DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH (ALLAHABAD)

CIV

IN THE MATTER OF

CIVIL APPEAL NO(S) 9137 OF 1995

(Appeal(s) by Special Leave from the Judgment and Order dated
27th October, 1994

of the High Court of Central
Administrative Tribunal Allahabad Bench in Original

Application No.1662 OF 1992)

Union of India & Ors.

....APPELLANT(S)

VERSUS

Smt. Geeta Devi

....RESPONDENT(S)

Sir,

I am directed to forward for your information and record
a Certified copy of the Petition(s) for Special Leave to
Appeal filed in the Supreme Court by the Appellants above-
named on 8th February, 1995 and taken on record as
Petition(s) of Appeal pursuant to this Court's Order dated
25th September, 1995, granting Special Leave to appeal
to the Appellant(s) above-named from the Judgment and Order
of the High Court above-mentioned and to say that the case(s)
has/have been registered in this Court as CIVIL APPEAL
NO(S) 9137 OF 1995. A Certified copy of this
Court's record of proceedings dated 25th September, 1995
containing the said Order is enclosed herewith.

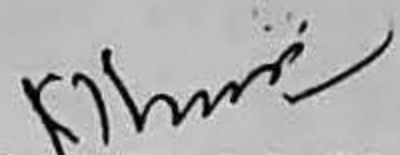
to be no reason to hold...

The sole Respondent is represented through Mr. Anil Kumar Jha, Advocate as such. he has been served with the Notice of Lodgment of Petition of Appeal directly through his Advocate.

You may now as required under Rule 11, Order XV, Supreme Court Rules, 1966 cause the enclosed Notice of Lodgment of the Petition(s) of Appeal to be served on the Respondent(s) and transmit to this Court a Certificate as to the date or dates on which the said Notice has been served.

I am to invite your attention to the provisions contained in Rule 11A, Order XVI, S.C.R. 1966 (as amended) and accordingly you are requested to transmit to this Court the entire Original Record alongwith paper-books, if any, prepared for the use of the High Court for reference of this Court.

Yours faithfully,


ASSISTANT REGISTRAR
FOR REGISTRAR (JUDL.)

1026/Admn

8/10/01

D.No. 984/95/SEC. XI.

SUPREME COURT OF INDIA,
NEW DELHI.

Dated this the 1 day of September, 2001.

From: The Assitant Registrar,
Supreme Court of India,
New Delhi.

To: The Registrar,
~~High Court of~~ Central Administrative Tribunal,
Allahabad Bench, 23-A, Thornhill Road,
Allahabad - 211001
(G.P.)

CIVIL APPEAL NO. 9137 OF 1995.

(Registration O.A.No. 1662 of 1992)

Union of India and Others.

.....Appellant(s)

-Versus-

Smt. Geeta Devi

...Respondent(s)

Sir,

In continuation of this Registry's letter of even number dated the 18-9-2001, I am directed to transmit herewith the original record relating to the matter forwarded to this Court under your letter No.CAT/A1101/Judl./1662/92/1183 dated 14th June, 1996 as per the details given below.

Please acknowledge receipt.

Yours faithfully,

ASSISTANT REGISTRAR

DETAILS OF ORIGINAL RECORD:

Original records of O.A 1662/92.

OR

A letter bearing no.
D.W. 984/95/SEC. XI.
dt. 18-9-2001 has
been received from
Registrar (Judicial)
Supreme Court of India.
with the letter copy of
order passed by Hon. Supreme
Court of India in civil
Appeal no 9137/95 dt.
9-8-2001. Where by the
order passed in O.A. no.
1662/92. Submitted.

Pur
25/9/01

S. G. A. Ash L
25/09/01

DR (J)

Order of Hon. Supreme Court
is to be shown to Hon. v.e.
along with original file.

P
25/9

on
Part 'A' of this case has already
been sent to Hon. Supreme Court
copy of order dt 9.8.01. received on
25.9.01 is submitted.

h
26/9/01.

As the previous order of Hon. Supreme Court of India in which
CAT. A.L.D.'s order was set aside
and the same has already been
circulated amongs Hon. Members
of the order of Hon. v.e. then seems
to be no reason to bother Hon. v.e. again.

⑦ This judgment may
be kept along with the
original records held
in the office.

P
27/9/01 by G.A.
S.G.A.

D.No. 984/95/SEC. XI.

**SUPREME COURT
INDIA
NEW DELHI**

All communications should be
addressed to the Registrar,
Supreme Court by designation,
NOT by name
Telegraphic address :-
"SUPREMECO"

Dated this the 18/ day of September, 2001.

From: The Registrar(Judicial),
Supreme Court of India,
New Delhi.

To: The Registrar,
Central Administrative Tribunal,
Allahabad Bench,
23-A, Thornhill Road,
Allahabad- 211 001, (U.P.).

CIVIL APPEAL NO. 9137 OF 1995.

Union of India and Others.

....Appellants.

-Versus-

Smt. Geet Devi

.....Respondent

Sir,

In continuation of this Registry's letter of even number dated
the 16th August, 2001, I am directed to transmit herewith for necessary
action a certified copy of the Decree dated the 9th August, 2001 of
the Supreme Court in the said appeal.

The original record will follow.

Please acknowledge receipt.

Yours faithfully,

for

REGISTRAR (JUDICIAL)

Sh. Pradeep
Asst.
27/09/01

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL APPELLATE JURISDICTION

Certified to be true copy

528884

No.

Assistant Registrar (Judicial)

19-9-2000

Supreme Court of India

CIVIL APPEAL NO. 9137 OF 1995.

(Appeal by special leave from the Judgment and Order dated the 27th October, 1994 of the Central Administrative Tribunal, Allahabad Bench in Registration O.A.No. 1662 of 1992)

1. Union of India,
through: Director,
Ordinance Equipment Factory,
Kanpur.
2. Additional Director General,
Ordinance Equipment Factory,
ESIC Bhavan, Sarvodaya, Nagar,
Kanpur.
3. General Manager,
Ordinance Equipment Factory,
Kanpur.

~~XXXXX AMBELLMENTX~~

.....Appellants.

-Versus-

Smt. Geeta Devi,
wife of Late Shri Bhimcent Soora Dodrai,
resident of 16/11, Chimni Wala Hata,
Bhagwatdas Ghat,
Kanpur Nagar.

.....RESPONDENT.

9th August, 2001CORAM:

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE DORAISWAMY RAJU

- For the Appellants : Mr. N. N. Goswami, Senior Advocate,
(M/s. Ajay Sharma and C. Radhakrishnan
and Mrs. Anil Katiyar, Advocates
with him)
- For the Respondent : Mr. Anil Kumar Jha, Advocate
(Not present)

The Appeal above-mentioned being called on for hearing
before this Court on the 9th day of August, 2000, UPON perusing
the record and hearing counsel for the Appellants herein,

.....2.....

THIS COURT DOTH in allowing the appeal ORDER:

1. THAT the Judgment and Order dated 27th October, 1994 of the Central Administrative Tribunal, Allahabad Bench in Registration O.A. No. 1662 of 1992 be and is hereby set aside, and the said Registration O.A. No. 1662 of 1992 filed by the Respondent herein before the Tribunal shall stand dismissed;

AND THIS COURT DOTH FURTHER ORDER that this ORDER be punctually observed and carried into execution by all concerned;

WITNESS the Hon'ble Dr. Adarsh Sein Anand, Chief Justice of India, at the Supreme Court, New Delhi, dated this the 9th day of August, 2001.

(I.J. SACHDEVA)
JOINT REGISTRAR.

SUPREME COURT

~~CRIMINAL~~ CIVIL APPELLATE JURISDICTION

No. of 200

CIVIL APPEAL NO. 9137 OF 1995.

Union of India and Others.

Appellant

~~Petitioner~~

Versus

Smt. Geeta Devi.

Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
(Registration O.A. No. 1662 of 1992)

DECREE ALLOWING THE APPEAL

the 9th day of August, 2001.

Anil Katiyar,

On Record for the Appellants

Compared with SHRI Anil Kumar Jha,

No. of folios Advocate on Record for the Respondent.

V.K./13-9-2001.

SEALED IN MY PRESENCE

18/9/01

OR

A letter bearing no.
984/1995/21 dt. 16-8-2001
has been received from
ASST. Registrar Supreme
Court at India. with the
letter ~~order~~ copy of
order passed by Supreme
Court in civil Appeal no.
9137/95 dt. 9-8-2001
whereby the order passed
in no. 1662/92. By
this Bench has been
allowed the appeal.
Submitted.

4
27/8/01

S.O. 111 Adil
27/08/01

DR(1)
circulate the judgement
amongst Hon'ble J.C./members.

R
27/8

If this case
has been sent
to Supreme Court,
order dt. 9.8.01
on 27.8.01 is
red.

101 The judgement of Hon'ble
prime Court of India in civil
appeal no. 9137/95 against the
judgement of this bench in O.A.
21/92 is submitted before
Hon'ble J.C./members for their lordships
kind perusal.
On 20/8

Hon'ble J.C.
circulate among
Hon'ble Members

R
29/8/2001

Needful has been done.
Adil
27/8/01

SUPREME COURT OF INDIA

Regd
9/10/96

L.NO. 984/95/XI
SUPREME COURT OF INDIA
DATED: 20-9-96

FROM:

THE ASSISTANT REGISTRAR
SUPREME COURT OF INDIA

Adm. 125 IL.
09/10/96
THE ~~REGISTRAR~~ REGISTRAR
~~ALLAHABAD - 211001.~~ CENTRAL ADMINISTRATIVE TRIBUNAL,
23-A, Thammhill Road,

CIVIL APPLAL NO. (S) 9137 OF 1995

Union of India & ors

...APPELLANT(S)

VERSUS

Smt. Geeta Devi

....RESPONDENT(S)

Sir,

I am to acknowledge the receipt of Original Record/
~~Transcript Record in triplicate including one authenticater~~
~~copy thereof~~ sent with your letter No. C.A.T./Alld/Jud/1662/P2
dated 14-6-1986

Yours faithfully,

Sundhig
ASSISTANT REGISTRAR

Shri Ranjay Agarwal

VK/SEC.XI.

Keep on Record

22/10/11/86

240

All communications should be addressed to the Registrar, Supreme Court by designation, NOT by name
Telegraphic address :—
"SUPREMECO"

SUPREME COURT
INDIA
NEW DELHI

D.NO. 984/1995/XI
SUPREME COURT OF INDIA
DATED: 16/08/2001

FROM:

THE ASSISTANT REGISTRAR
SUPREME COURT OF INDIA

TO:

✓ DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

CIVIL APPEAL NO. 9137 OF 1995

(From the Judgment and Order dated 27th October, 1994 of the Central Administrative Tribunal Allahabad, in original application No. 1662 of 1992)

Union of India & Urs.

.. Appellants

Versus

Geeta Devi

.. Respondent

Sir, 23/8

In pursuance of Order XIII, Rule 6, S.C.R. 1966 I am directed by their Lordship of the Supreme Court to transmit herewith a Certified Copy of the Judgment/Signed Order dated the 9th August, 2001 in the Appeal Above-mentioned.

The Certified copy of the decree made in the said Appeals and the Original Records, if any, will be sent later on.

Yours faithfully,

[Signature]
ASSISTANT REGISTRAR

Sh. Pradeep

Accd
24/08/01

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9137/1995

Certified to be true copy
Assistant Registrar (Judl.)
16/12/2001
Supreme Court of India

Union of India & Ors.

Appellants

Vs.

518515

Geeta Devi

Respondent

O_R_D_E_R

Husband of the respondent, Bhimeent Sore, was appointed on casual basis from 24.9.1979. Thereafter he was appointed on temporary basis from 8.12.1980 under the Central Civil Services (Temporary Services) Rules, 1965. It appears that thereafter he remained unauthorizedly absent. It appears he was admitted in the hospital on 4.4.1981 and discharged on 14.4.1981. He attended his duty upto 21.5.1981. Thereafter he remained absent. Inasmuch as the said employee absented from his duty without being permitted by necessary authority, the appellants initiated proceedings as contemplated under Rule 5 (2) of the CCS Temporary Services Rules and subsequently discharged him from service w.e.f. 23.9.1982. Thereafter an original application was filed by the respondent for various reliefs namely, arrears of salary, family pension, payment of death-cum- retirement gratuity and Group Insurance and to give suitable employment to her, as he is deemed to have died in harness. The basis upon which the respondent claimed the

said reliefs is that her husband disappeared and remained missing for more than seven years and he should be presumed to be dead.

The Tribunal by an order made on 27.10.1994 directed to give whatever dues were payable to the respondent treating her husband to have died on 16.4.1988 and also directed to give a suitable employment to her in Class IV as a dependant of the employee who dies in harness and in addition the payment of compensation of Rs. 50,000/-. This order is assailed in this appeal.

It is clear from the narration of the facts that the services of the husband of the respondent were terminated w.e.f. 23.9.1982. If that is so, question of giving any other relief as sought for by the Respondent would not arise at all. The Tribunal ignoring these aspects of the case has given the relief in question which we think is not in order. Therefore, the order made by the Tribunal is set aside and the application filed by the respondent shall stand dismissed. The appeal is allowed accordingly.

New Delhi,
August 9, 2001

Sd/- J. |
(S. RAJENDRA BABU)
Sd/- J. |
(D. RAISWAMY RAJU)