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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...
O.A. No. 1195 of 1993

Smt. Vidyawati Applicant.

Versus

Union of India
and others ... Respondents.

...
(By Hon. Mr. S. Das Gupta, Member(A))

The reliefs prayed for in this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985 are that a direction be issued to the respondents to pay to the applicant the gratuity payable to her husband and also pension to the petitioner from the due date with arrears thereof ~~altogether~~ with interest on the aggregate of the terminal benefits for the delayed period.

2. The brief facts of the case are that the husband of the petitioner was initially appointed as ~~Masalchion~~ temporary basis on 29.4.1962 General Reserve Engineering Force (GREF for short). He was subsequently granted quasi-permanent status w.e.f. 20.11.1969. He was latter promoted to the post of Cook on 13.5.1970 (according to the respondents, he was remustered as Cook w.e.f. 1.4.1965).

3. The applicant suffered from heart ailment in the month of December, 1970. From 17.12.1970

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he remained under treatment in various spells until ~~he~~^{was} discharged w.e.f. 12.2.1976 on being physically unfit for the service. The husband of the petitioner died on 1.11.1976 leaving behind petitioner amongst others.

4. The petitioner is stated to have made number of representations for grant of ~~retiral~~ benefits and according to her, she was asked by various authorities the details of her husband's services which she furnished from time to time. However, according to her all the representations have been invain and this has led her to file this petition for the relief aforementioned.

5. In the counter reply filed by the respondents two preliminary objections have been taken. Which are;

(i) that the GREF is an integral part of Arm Forces in terms of the Govt. of India letter dated 14.8.1985 (Annexure- C.A. 2) and Govt. of India Statutory Rules and Orders No. 329 dated 23.9.1960 (Annexure- C.A. 2A) and that being so, the Central Administrative Tribunals has no jurisdiction in this case.

(ii) the second plea taken is that the petitioner's husband was discharged from service on 12.2.1972, whereas, this petition having been filed only in 1993, as such, is highly timebarred.

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On merits of the case, it has been contended by the respondents that since the applicant's husband was only a quasi-permanent employee and have rendered less than 10 years of service, neither he nor his family are entitled to any terminal benefits.

6. We have heard the learned counsel for both the parties and carefully gone through the records of the case.

7. As regards the preliminary objection relating to the jurisdiction of the Tribunal in the matter, we find that the applicant was declared quasi permanent in terms of CCS(T.S.) Rules, 1965. This is clear from the copy of the relevant order annexed by the applicant as Annexure- R.A. 1. Moreover, the order of discharge issued by the respondents, a copy of which has been annexed as Annexure-C.A. 6, clearly shows that such discharge was in terms of CCS(T.S.) Rules, 1965. ^{thereif} Therefore, no doubt whatever, that the applicant was not governed by the Army Act but his conditions of service were governed under CCS(T.S.) Rules and, therefore, he was a civilian employee in defence services. Such employees come within the jurisdiction of the Central Administrative Tribunal in respect of their service matters; as such, the plea of the lack of jurisdiction has, ~~no force~~, no force and is rejected.

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8. Coming to the question of limitation there is no doubt that there has been delay in filing this application. However, it would appear that during the intervening period, the petitioner has been pursuing the matter in the department for favourable decision and was not sleeping over the matter. Moreover, in the cases of non-payment or delayed payment of pensionary benefits, the Courts/Tribunals are expected to decide the cases on merits ignoring the delay in filing the application unless there are strong ground for rejecting the application on limitation itself. We, therefore, thought it proper to examine the case ^{do} on merit which we proceed to/it hereunder;

9. The applicant, admittedly was not a permanent employee. He had acquired quasi permanent status and admittedly, he had not completed 10 years of service. He was, therefore, not entitled to any pension and as such, his family was not also entitled to the family pension on his demise. However, Rule-11 of CCS(T.S.) Rules clearly provides that Government Servant in quasi permanent service shall be entitled to one half of a months pay for each completed year of his service if he had completed not less than 5 years continuous service at the time of the termination of the service, otherwise, than as a disciplinary measure or by resignation.

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This provision has been deleted from the CCS(T.S.) Rules, 1965, in 1988 on abolition of the provision for conferring quasi permanent status. However, the said Rule-11 of C.C.S (T.S.) Rules was very much extant at the time of discharge of the husband of the applicant and, therefore, under this rule, he was entitled to receive gratuity as specified in the said rule. We have noted from the counter reply filed that the applicant was paid a sum of Rs. 448/- as maritorious service done under the Rules existing at that time. The payment of this amount has not been rebutted by the applicant but we have not been told, under which rule the said amount has been paid. This, however, does not detract from the eligibility of the petitioner's husband from receiving terminal gratuity as provided under Rule-11 CCS (T.S.) Rule, 1965.

10. In view of the foregoing, we direct the respondents to work out the gratuity payable to the husband of the applicant in terms of Rule-11 of CCS(T.S.) Rules and pay the same to the applicant. In view of the special circumstances of the case, we do not order payment of this sum with interest at the market rate but let this amount be paid with interest at a nominal rate of 6% per annum from a date three months after the date

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Attorney

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of discharge of the applicant's husband till
the date of actual payment, which shall not be more
than 6 months from the date of this order.

11. The application is disposed of with
the above directions. There will be no order
as to costs.

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Member (A)

Dated: 27 July, 1994.
(n.u.)

Receptionist

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FROM:

~~Registration~~
in 3398

D.NO. 1700/95 SC/X
SUPREME COURT OF INDIA
DATED: 10/2/98

S.O. (J)
For N.A. Keep on Record

~~Registration~~

03/03/98

The Assistant Registrar
Supreme Court of India

TO:

1. The Deputy Addl/Registrar
High Court of Judicature
At Allahabad (Lucknow Bench)
Lucknow.
2. The Deputy Registrar
Central Administrative Tribunal
Allahabad Bench, Allahabad.

796
PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 8096 of 1995
(Petition) under Article 136 of the Constitution of India
for Special Leave to Appeal to the Supreme Court from the
Judgment and Order dated 27th July 1994 of the High
Court of Central Administrative Tribunal Allahabad Bench
at Allahabad in Original Application No 1195 of 1993

Union of India & ors ... Petitioner(s)

Versus

Smt. Vidyanathi

... Respondent(s)

Alm
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Sir,
03/3/98
I am inform you that the Petition above-mentioned
for Special Leave to Appeal to this Court was filed on behalf
of the Petitioners above named from the Judgment and Order
of the High Court noted above and that the same was disposed of
by this Court on the 9th day of January 1998.

A Certified copy of this Court's Proceedings dated
9/1/98 is enclosed herewith for your information
and necessary action.

Yours faithfully,

N. (G) 10/2/98
ASSISTANT REGISTRAR

Sec/xi

Shri S. Jayaram
Pankey
for in action plan

5/3 Rd 6th Circle, Bangalore
Karnataka
9/1/98

First - 6th floor
AR 1983 SC 658

24/1/98

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Certified to be true copy
N. C. [unclear]
Assistant Registrar (Jud.)
19.2.1998
Supreme Court of India

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 8096 OF 1995

Union of India & Anr.

... petitioners

Versus

Smt. Vidyawati

... respondent

ORDER

As it appears to us that the members of the General Reserve Engineer Force cannot move the Central Administrative Tribunal in view of the decision of this Court in R. Viswan & Ors. Vs. Union of India & Ors. (AIR 1983 SC 658), the impugned decision of the Central Administrative Tribunal cannot be sustained and therefore is set aside. Liberty is, however, given to the respondent to move the High Court for appropriate relief if the respondent so desires. If such writ petition is filed, it will be appreciated if the High Court disposes of the same at an early date in view of the fact that the respondent is an aged widow.

The special leave petition is thus disposed of.

Sd/-

(G. N. Ray)

Sd/-

(C. B. PATNAIK)

New Delhi
January 9, 1998