

ORDER DATED 27.3.2006

The facts of the case in a nut shell are that the applicant's husband was working as Fitter, Grade-III at Palasa. While in service he faced a minor penalty charge-sheet. He was getting Rs.4110/- as his basic pay at the time of initiation of minor penalty proceedings. In conclusion of the disciplinary proceedings, his pay scale was reduced from Rs.4110/- to Rs.3050/- for a period of three years from 1.12.1998 with non-cumulative effect. The applicant's husband expired on 19.1.2000. Immediately after his death, the applicant submitted a representation by way of an appeal before the appellate authority for cancellation of the punishment imposed against her husband. The appellate authority, as a gesture of humane approach, quashed the order of punishment. The applicant, thereafter submitted a representation for computation of her family pension on the basis of scale of pay at Rs.4110/-, which her husband was getting before initiation of the departmental proceedings. In the meanwhile, the Respondent-authorities moved a revision application before the A.D.R.M., who set aside the appellate authority's order and passed the order as under :

- “ i) The case has come up after a lapse of four years and since the charged official died and there is no application by the charged official for exemption from punishment given by disciplinary authority, the punishment is to be treated as in operation when he died. The order dated 25.4.2002 by Sr.D.M.E. exempting the operation of punishment and restoring him back to his original pay to be treated as null and void.
- ii) The family pension and last dues to be paid provisionally to the legal heirs early.
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iii) However, the case may be sent to Hd.Qrs. with recommendations of A.D.R.M./D.R.M. for review on own motion by G.M."

Mr.Das, the learned counsel has submitted that the applicant was kept in dark about the orders on the revision and till date there has been no communication about the cancellation of the appellate authority's order. It is his further grievance that the Respondent-authorities, without implementing the order passed by the appellate authority took a view for not extending such benefit to the applicant; rather came up with a plea that the appellate authority's orders had been cancelled by the revisional authority. When asked to satisfy as to whether any chance or opportunity was given to the applicant before passing orders by the revisional authority on the order of the appellate authority, Shri Panda, the learned counsel appearing for the Respondents could not ^{satisfactorily} ~~rightly~~ satisfy with regard to issuance notice to the applicant. From a bare reading of the revisional authority's order nothing spelt out that any such notice was given to the applicant prior to passing of this order. After the matter was remitted by the revisional authority to D.R.M., the D.R.M. suggested to send the matter to the G.M. But the C.P.O. instead of sending it to the G.M., opined that since such matters should have been referred to the President but not to G.M. under Rule 25(a) of the Railway Servants(Discipline & Appeal) Rules, he, therefore, did not recommend to send it to the G.M. and the order too was passed without the applicant being given a chance of hearing. Till today, either the order passed by the revisional authority or by the CPO has never been communicated to the applicant. In this view of the matter, I am not in a position to rely upon the order passed either by the revisional authority or by the CPO.

It is true that the applicant's husband had never challenged the order of punishment while he was alive, but had preferred to undergo the punishment. At any rate, after the death of her husband, on the appeal preferred by the applicant, the appellate authority, by taking a humanitarian approach directed the authorities to compute the family pension in the scale

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11 of at Rs.4110/-, which the applicant's husband had been drawing before the punishment could be imposed. Since no opportunity was afforded to the applicant while passing the revisional order or the order passed by the CPO, I am not in a position to agree with those orders. Accordingly, I hereby direct the D.R.M. to consider the revisional application after giving sufficient and adequate opportunity to the applicant in the light of the rules/instructions/circulars/orders issued by Respondent No.1 from time to time, within a period of four months from the date of communication of this order.

With the above observation, this O.A. is disposed of. No costs.


CHAIRMAN