

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00297/2014

Reserved on: 29.03.2016

Jodhpur, this the 1st day of April, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

Hazara Bano wife of late Hussain Bux, aged about 70 years, resident of C/o Shri Nashiruddin, Kalu Bas, Damnio Ki Maszid, Shridungargarh, Distt-Bikaner, her husband was last employed on the post of Trolley Man in the office of PWI-III at Shridungargarh Railway Station, NWR.

.....Applicant

By Advocate: Shri J.K.Mishra

Versus

1. Union of India through General Manager, HQ Office, North Western Railway, Malviya Nagar, Near Jawahar Circle, Jaipur
2. Divisional Railway Manager, NWR, Bikaner Division, Bikaner.
3. Assistant Divisional Engineer, North Western Railway, Ratangarh Jn

.....Respondents

By Advocate : Shri Vinay Jain

ORDER

By filing the present OA, the applicant has challenged the order dated 28.04.2014 (Ann.A/1) by which her claim for grant of compassionate allowance to her husband Late Shri Hussain Bux was rejected.

Praveen Mahajan

2. Brief facts of the case, as stated by the applicant, are that husband of the applicant was initially engaged as Casual Labour under IOW-I and II at Hanumangarh where he worked upto 15.6.1958. Thereafter he was absorbed in Group-D post. The husband of the applicant took leave for three days from 15.4.1977 and he had to remain on prolonged sickness and he informed about his sickness to his controlling authority. After taking treatment from private medical practioner, he was cured on 04.04.1988. After fitness, the husband of the applicant tried to join his duties but he was told that he had already been removed from service vide penalty order dated 11.06.1984. The applicant has alleged that the removal order has been passed without serving any chargesheet and inquiry was held ex-parte. The husband of the applicant vide letter dated 27.08.1990 was informed that no pensionary benefits were payable to him since he was imposed the penalty of removal from service. The applicant has relied upon the Railway Board's circular RBE No.164/2008 and proviso to Rule 65(1) of Railway Services (Pension) Rules, 1972 and claims that he fulfilled all the conditions of case deserving special consideration for sanction of compassionate allowance. Earlier, the husband of the applicant has approached this Tribunal claiming compassionate allowance by filing OA No.27/2010 which was disposed of vide order dated 9th December, 2010 with

Thereafter, when the claim has been rejected, the applicant again filed OA No.497/2012 and the same was disposed of with direction to reconsider the case of the applicant. The respondent department after re-examining the case of the applicant, rejected the claim vide impugned order dated 28.4.2014 (Ann.A/1). Therefore, the applicant has approached this Tribunal for the reliefs as elaborated above.

4. In reply to the OA, the respondents have submitted that Shri Hussain Bux remained unauthorised absent from duty w.e.f. 18.04.1977 to 02.05.1983. Due to prolonged absence for more than six years, the SF-5 was served by the department by letter dated 02.05.1983 and the same was sent through postal dak, but could not be delivered as he was not found at his home. Again SF-5 was sent to his home address but it was returned back undelivered on the basis that he was not found at his home as he was out of India. On inquiry, it was revealed that husband of the applicant was out of India and in this respect two witnesses confirmed this fact. Thus, from the witnesses, it was proved that he was not at his home and was out of India and for remaining absent and for going out of India, no permission was sought from the competent authority, therefore, SF-5 was not delivered and ex-parte decision was taken in which punishment was imposed for removal from service vide order dated 11.06.1984. The respondents have

further submitted that the Railway Board has issued circular No. 164/2008 for granting compassionate allowance to those who have been removed or dismissed from service. As the husband of the applicant was removed from service on the ground that he remained unauthorized absence and further gone out of India without seeking prior permission and thus conduct of the husband of the applicant was dishonest, therefore, his case was of such nature that compassionate allowance cannot be sanctioned. Therefore, the respondents have submitted that the OA deserves to be dismissed.

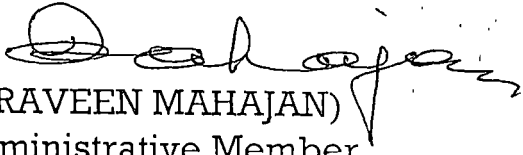
5. I have heard the learned counsel for the parties and gone through the material available on record.

6. In the instant case, the applicant has claimed compassionate allowance as per Railway Board's Circular RBE 164/2008. As discussed above, Shri Hussain Bux, husband of the applicant has absented from duty for a period of about 10 years on the ground of illness. Vide order dated 9.12.2010 and 11.03.2014, this Tribunal has directed the respondent department to consider grant of compassionate allowance to Shri Hussain Bux in the light of various judgments referred to by the counsel for the applicant. Now vide order dated 28.04.2014, the respondent department has examined and concluded that grant of compassionate allowance

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7. Taking into consideration all facts and circumstances of the case, I am inclined to agree with the decision dated 28.04.2014, since sanction of compassionate allowance can only be done in deserving and special cases and it cannot be claimed as a matter of right. During the period that he remained absent from duty, Shri Hussain Bux made no efforts to either apply for leave or explain his absence to the higher authorities. In my view, the Government service cannot be taken as a matter of right and once an official who applied for leave for three days on 15.4.1977 disappears for 10 years cannot expect that when he reports for duty on 04.04.1988, he will be received with open arms and given all dues and benefits which are otherwise available to a disciplined Government employee.

8. Keeping in view the facts and circumstances of the case, I find no reason to interfere with the decision of the respondent department. The OA is accordingly dismissed with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/