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CENTRAL ADMINISTRATIVE TRIBUNAL

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Original Application No. 21 of 1992.

Smt. Neeraj Srivastava

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Husband of one applicant late Radhey Shyam Lal the then Engine Cleaner in the Loco Shed, North Eastern Railway, Gonda, died on 13.7.90. After death of her husband applicant gave several applications/representations for appointment on compassionate ground and the representations were sent to the department and the Minister concerned and thereafter she was required to fill form regarding payment of gratuity and it was stated by the respondents that she was not entitled for appointment, as applicant's husband was removed in his life time. The applicant states that she has, from the record maintained by her husband, the letter dated 12.3.84 and representations made by her husband which show that the husband of the applicant was neither served by charge sheet nor any show cause notice or order of removal was served to the husband of the applicant, but the respondents in reply to the letter of Shri Ram Pratap Singh, M.L.A. replied vide letter dated 12/91 that the husband of

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applicant was removed from service due to unauthorised absence from duty w.e.f. 5.7.76.

2. According to the applicant, her husband gave notice and application under section 80 C.P.C./for payment of Wages Act and for payment of wages w.e.f. 5.7.76 to January 1977.

In the letter dated 12.9.76 and 15.9.76, the respondent No. 5 admitted at least the receipt of representations of the husband of the applicant.

3. According to the applicant, she learnt that the authorities were against her husband. The removal order was challenged on that ground that it is without following any procedure and according to her, her husband was ill and as a result of ailment he died. The representation filed by the applicant has also been placed on record in which he has made a complaint that he was not allowed to join his duties. In his representation he also question the so called termination order which is said to have been passed against him. From the letter of Regional Manager which is on record it appears that the services of the applicant's husband have been terminated without giving opportunity and penalty was imposed upon him and the Regional Manager made recommendations to the General Manager in this behalf. It appears that for this reason record has not been produced.

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4. Shri K.D. Nag, learned counsel for the respondents placed before me para wise comments and copies of certain documents stating that the same be taken as written statement. From the said comments it appears that charge sheet issued to the husband of the applicant through registered post was received back without service, and it was again sent to Loco Foreman and the same was pasted on the notice board and the shed. Thus, from the facts it is clear that charge sheet was not served on him and he was removed on 9.11.82, though he died on 13.7.92. In the entire notes it has nowhere been stated that after non service of the charge sheet any enquiry took place, as a result of which he was removed. It appears that the charge sheet was not served and he was removed from service.

5. No removal order can be passed in such a manner. As the applicant has died, he cannot be reinstated back in service. The other record has not been produced by the respondents as directed, presumption can be drawn against them. No useful purpose will be served in treating the husband in service. The removal order is bad and the respondents are directed to give appointment to the applicant or to her children, if there is any nominated by her within a period of three months from the date of communication of this order. Application stands disposed of as above. No order as to costs.


Vice Chairman.

Lucknow: Dated 16.4.93.
Shakeel/-