

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~
NEW BOMBAY BENCH

O.A. No.

2 of

198 9

~~TAXXNXX~~DATE OF DECISION 28.3.1989Shri Shrikant Govind Muzumdar PetitionerApplicant in person. Advocate for the Petitioner(s)

Versus

Union of India & 2 Others. RespondentMr.S.R.Atre(for Mr.P.M.Pradhan) Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.B.Mujumdar, Member(J)

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*2. To be referred to the Reporter or not? *No*3. Whether their Lordships wish to see the fair copy of the Judgement? *No*4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

⑤

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 2 of 1989

Shri Shrikant Govind Muzumdar,
(In place of his late wife
Mrs. Jayashri Shrikant Muzumdar)
C-3/2 Nau Saunrakshan Co-Operative
Society Limited, Liberty Garden,
Malad (West),
Bombay-400 064.

.. Applicant

V/s.

1. Union of India
through Dy. Director of Census Ops
(Maharashtra),
Exchange Building, Sprott Road,
Ballard Estate,
Bombay-400 037.
2. Dy. Director of Census Ops
(Maharashtra),
Exchange Bldg., Sprott Road,
Ballard Estate,
Bombay-400 037.
3. Registrar General of India,
Ministry of Home Affairs,
Kotah House Annexe,
Mansingh Road,
New Delhi.

.. Respondents.

Coram: Mon'ble Member(J), Shri M.B. Mujumdar,
Hon'ble Member(A), Shri M.Y. Priolkar.

Appearance:

1. The applicant in person.
2. Shri S.R. Atre (for Mr. P.M. Pradhan)
Advocate for respondents.

ORAL JUDGMENT:-

Dated: 28.3.1989

[PER: Shri M.B. Mujumdar, Member(J)]

The applicant, Shri Shrikant Govind Muzumdar, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 regarding some grievances of his wife Mrs. Jayashri Shrikant Muzumdar, who has died on 22.10.1987.

Contd...2/-

2. The relevant facts for the purpose of this judgment are these: The applicant's wife Jayashri was appointed as Computer on 4.1.1971. She was made permanent on 22.4.1980. On 15.9.1981, she filed Writ Petition No.1373 of 1981 in the High Court of Judicature at Bombay. In that petition Union of India was respondent No.1 and Director of Census Operations was respondent No.2. Respondents No. 3 to 21 were the officials who had superseded her for the post of Statistical Assistant. In that petition she had made the following prayers:-

- i) To declare that the promotions of respondents No. 3 to 21 in supersession to her claim were illegal, void and inoperative.
- ii) To direct respondents No. 1 and 2 to promote her to the post of Statistical Assistant in the office of Census Operations (Maharashtra), retrospectively, from the date on which she was suspended by respondents No. 3 to 21.
- iii) To direct respondents No.1 and 2 to pay to her the pay and other benefits, allowances of the post of Statistical Assistant from the date of her supersession by respondents No. 3 to 21.
- iv) To direct respondents No. 1 and 2 to release the annual increment to her due on 31.1.1981.
- v) To direct respondents No.1 and 2 to pay to her the salary for the period from 5.2.1981 to 30.6.1981.

After hearing both the sides, Writ Petition No.1373 of 1981 was dismissed by a Single Judge of the High Court on 16.12.1982.

3. Being aggrieved by that decision the applicant's wife preferred an appeal No.359 of 1983 to a Division

Contd...3/-

(7)

Bench of the High Court. On 29.4.1983, the matter was compromised. The consent terms of that compromise were these: (i) Mrs. Muzumdar be paid salary according to the rules within three weeks from today. (ii) She should be allowed to resume duty as Computer from 2.5.1983. (iii) Respondents to provide usual sitting arrangement and work to her. (iv) The appeal ^{was} ~~is~~ allowed to be withdrawn with liberty to file a fresh petition, if necessary, against departmental proceedings. (v) No order as to costs.

4. On 7.9.1981 a charge-sheet was served on Mrs. Muzumdar. The charges were regarding refusal to comply with the office instructions to undertake field work connected with census evaluation study in a block of Greater Bombay, reading newspapers during office hours, overstaying lunch breaks and leaving office without proper permission, refusing to accept the transfer order and remaining unauthorisedly absent from 5.2.1981 to 25.6.1981. However, the Disciplinary Authority, exonerated her of all the charges by his report dated 13.6.1986. We may point out that by order dated 24.7.1984 she was placed under suspension but that order was revoked on 8.5.1987.

5. On 2.3.1987, another charge-sheet was served on Mrs. Muzumdar. It contained 5 charges. The first charge was for remaining unauthorisedly absent from 14.12.1981 to 25.6.1984 i.e. for 496 days in different spells. The other charges were regarding failure to perform the work assigned to her by her superiors,

failure to maintain devotion to duty, refusal to accept or acknowledge official communications, refusal to accept payment of salary, arrears of ADA, interim relief, etc. and flouting office procedure and discipline by trying to serve personal applications, letters, etc. on the senior officers. Mrs. Muzumdar replied to the charges but she did not participate in the inquiry. However, due to her death on 22.10.1987 disciplinary proceedings were ultimately closed in December, 1987. She had no issue.

6. The officers in the office in which Mrs. Muzumdar was working were not aware of her death for a long time. Hence they were required to inquire with the Police who informed about her death on 22.10.1987. The applicant unfortunately did not approach the officers for paying the arrears to him which were due to his wife. On the contrary Deputy Director of Census Operations, Maharashtra had written a letter to the Registrar General of India, regarding settlement of dues of Mrs. Muzumdar, but the Deputy Director by his letter dated 27.6.1988 informed that the settlement of the dues may be considered as and when any claim for the same is received from somebody.

7. To complete the record we may point out that Mrs. Muzumdar had made a representation (which is styled as an appeal) to the Registrar General of India. The prayers in the representation were for payment of full salary, allowances and other benefits for the period from 5.2.1981 to 25.6.1981, 1.6.1983 to 24.7.1984 and 25.7.1984 to 13.5.1987. She had also prayed for

promotion to the post of Statistical Assistant, with retrospective effect, from the date her next junior was promoted to that post. It was not disputed that no decision is taken on it because of the death of the applicant's wife.

8. On 22.12.1988, the applicant has filed the present application and it is necessary to quote the prayers made by him therein:-

- i) Respondents be directed to pay full salary, allowances and other benefits in the promotional post of Statistical Assistant from the date on which Mrs. Muzumdar's next junior was promoted to that post.
- ii) Full salary, allowances and other benefits for the period from 5.2.1981 to 25.6.1981, 13.12.1981 to 1.5.1983, 1.6.1983 to 24.7.1984 and 25.7.1984 to 12.5.1987 with interest.

9. By our order dated 13.2.1989, we had issued notices to the respondents regarding admission. In pursuance of the notices, Mr.S.R.Atre(for Mr.P.M.Pradhan) appeared before us for the respondents. Respondents have also filed a brief chronological statement of facts. We have heard the applicant in person and Mr.S.R.Atre (for Mr.P.M.Pradhan), learned advocate for the respondents.


10. In view of the facts, we admit the application and as material facts are not in dispute we are disposing of this application finally.

11. The main prayer of the applicant in this case is for paying him salary and other allowances on the

basis of the promotion of his wife to the post of Statistical Assistant from the date on which her next junior was promoted to that post. But that was also the main prayer in Writ Petition No.1373/81. After hearing, that Writ Petition was dismissed by the High Court on 16.12.1982 and though in the appeal preferred by her, the matter was compromised, her prayer regarding promotion was not granted. Hence we are of the view that the applicant cannot make the same prayer in this application and claim arrears on that basis.

12. The remaining prayers are regarding arrears of pay and allowances and the respondents have shown their willingness to pay the same to the applicant according to rules. We may point out that the applicant's wife has died on 22.10.1987, issueless. The applicant stated before us that her parents are not alive but again he corrected himself by saying that he cannot make a positive statement in this regard. If her parents are not alive, the applicant alone will become her legal heir. The applicant is also entitled to family pension according to rules. Respondents should have no objection to pay the same to him. As regards other benefits such as Death-Cum-Retirement Gratuity, General Provident Fund, Central Government Employees Insurance Scheme, we are told by the applicant that his wife had made nomination in his favour. If that is so, the respondents should have no difficulty in paying these amounts to him.

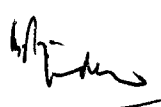
Contd...7/-

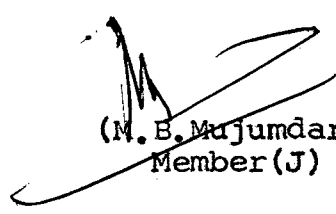


Hence we pass the following order:-

O R D E R

- (i) Respondents shall pay arrears of salary, allowances etc. due to Mrs. Jayashri Shrikant Muzumdar, wife of the applicant, to the applicant, according to the rules.
- (ii) Respondents shall also pay the amounts due to the wife of the applicant towards Death-Cum-Retirement Gratuity, General Provident Fund, Central Government Employees Insurance Scheme, etc. to the applicant according to the rules.
- (iii) The applicant shall complete the formalities regarding above amounts as per rules and as the respondents may inform him.
- (iv) Respondents shall pay the above amounts to the applicant within four months from the date of receipt of a copy of this order.
- (v) The application is disposed of on the above lines, with no order as to costs.


(M.Y. Priolkar)
Member(A)


(M.B. Muzumdar)
Member(J)

"Respondents made efforts to implement the above orders of Tribunal" vide their letter dtd, 27.10.89.

884
7/11/89.