

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:706/1996

Dated this the 17th day of October, 2001

HON'BLE SMT. LAKSHMI SWAMINATHAN, - VICE CHAIRMAN
HON'BLE SMT. SHANTA SHAstry - MEMBER(A)

1. Mrs. Malti - Wife
2. Mrs. Sunita - daughter
3. Ms. Lalitha - daughter
4. Ms. Ujjwala - daughter
5. Ms. Asha - daughter
6. Ms. Manisha - daughter
7. Naster Chetan- son ... Applicants
legal heirs of K.R. Gadekar
residing at Khadokban Gurujee Chawl,
Navaon, Dhandekar Wadi,
Bhiwandi, Dist. Thane.

By Advocate Shri S.P. Saxena proxy
for Shri A.S. Rao.

V/s.

1. Union of India
Through: Ministry of Communications,
New Delhi.
2. The Post Master General,
Maharashtra Circle,
Mumbai
3. Sr. Supdt. Post Offices,
Thane Central Division,
Thane ... Respondents

By Advocate Shri P.M. Pradhan

ORAL ORDER

Per Smt. Shanta Shastry, Member(A)

The applicant in this case was proceeded against departmentally for misconduct. There were five articles of charges. On the charges being proved, the disciplinary authority imposed a punishment of reduction of pay by eleven stages by order dated 9/3/94. Thereafter, the applicant had preferred an appeal on 20/6/94. The applicant was under the impression that

no decision had been taken on his appeal. However, the appeal was decided on 30/12/94 as being as time barred. There was a direction also on the letter to inform the applicant.

2. The main relief sought by the applicant is to pay him the unpaid salary for the months of May & June, 1995 alongwith interest, and to consider sanctioning of leave to the applicant from July, 1995 till the date of exhaustion of leave and to release the increments w.e.f. 1/1/95 or from the date of entitlement. Another major relief sought is that the applicant's application dated 1/12/95 for voluntary retirement from service may be deemed to have been granted from 29/2/1996.

3. The learned proxy counsel for the applicant submits that the applicant expired during the pendency of this OA on 11/3/2001. The learned counsel for the applicant filed MP-416/2001 to bring the legal heirs of the deceased employee on record. The MP-416/2001 was allowed and accordingly the heirs of the deceased employee have been brought on record.

4. Learned counsel for the applicant presses the prayer for treating the applicant's application for voluntary retirement as deemed to have been granted from 29/2/96. Also, the learned counsel pleads that since the original applicant has expired and since the appeal was not decided, the disciplinary proceedings should be treated as having been abated.

5. The learned counsel for the respondents submits that the disciplinary proceedings cannot now be abated as the same had been finalised much before the death of the deceased employee and not only that but also before filing of the OA. The appeal was

decided way back in 1994. Even the period of penalty order has expired. In the circumstances, the disciplinary proceeding have reached finality. Therefore the heirs of the applicant are now entitled to only whatever payments are due to the heirs including the deceased employee's pay if not already paid for the period during which he has worked. In regard to the request of voluntary retirement, it was made on 11/11/94, the same was rejected on 10/3/95 and the request could not have been considered at the time when the application was made within three months as the appeal filed by applicant against the penalty order was pending.

6. Having heard the learned counsel for both parties, in our considered view, the claim of the applicant for treating request of his notice for voluntary retirement as deemed to have been granted cannot be accepted.

7. Therefore, the original applicant had already undergone the penalty imposed upon him much before his death. Thereafter he was entitled to certain payments due to him. In so far as the payments due to the applicant are concerned, certainly if the deceased employee had put in any work during the months of May and June, 1995, as claimed the same shall be payable if not already paid. We also are inclined to grant interest on the same, if the payments have not been made so far, at the rate of 10% per annum from the date due till the date of payment. Similarly, whatever leave was available to the credit of the deceased employee, at the end of the penalty period, shall be sanctioned in accordance with the law. So also the increments need be released from the date due immediately after the expiry of the penalty period.

8. In the result, the OA is disposed of with the following directions:-

- i) The respondents shall pay to the applicants the unpaid salary if any payable to the deceased employee with interest @ 10% per annum from the date due till the date of actual payment;
- ii) Whatever leave was due to the credit of the ex employee, the same should be allowed with consequential benefits;
- iii) The increments due to applicant after the expiry of the penalty period shall be paid as per rules admissible;
- iv) Further, we direct that the action as above shall be taken by the respondents within a period of four months from the date of receipt of copy of this order;
- v) Any other payments due to the deceased employee's family shall also be paid including Family Pension.

However, we do not order any costs.

In aut. f

(SMT.SHANTA SHAstry)
MEMBER(A)

Lakshmi Swaminathan

(SMT.LAKSHMI SWAMINATHAN)
VICE CHAIRMAN