

28/8

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 767/96

Transfer Application No.

Date of Decision 18.9.97

Mrs. R.A.Jeevarathnam

Petitioner/s

Shri D.V.Gangal

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri V.S.Masurkar

Advocate for
the Respondents

CORAM :

Hon'ble Shri. P.P.Srivastava, Member (A)


Hon'ble Shri.

(1) To be referred to the Reporter or not ?

No

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?

No


(P.P.SRIVASTAVA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO. 767/96

Thursday this the 18th day of Sept 1997

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

Mrs. Ruby Anthony Jeevarathnam,
Wife of late Shri Anthony Jeevarathnam,
Driver-C (deceased),
C/o Lucas J.J., R/o Samtan Nagar,
Miraj.

By Advocate Shri D.V.Gangal

... Applicant

V/S.

1. Union of India, through
the General Manager,
Rail Neelayam,
South Central Railway,
Secunderabad.

2. The Divisional Railway Manager,
South Central Railway,
Hubli.

By Advocate Shri V.S.Masurkar

... Respondents

O R D E R

(Per: Shri P.P.Srivastava, Member(A))

The applicant is the wife of late Shri Anthony Jeevarathnam, Driver-C who was working on the South Central Railway. The applicant's husband was dismissed from service w.e.f. 15.2.1981 as he was held responsible for train accident. The applicant is not challenging the dismissal of late Railway employee in this OA. but is only seeking that the respondents should grant compassionate allowance to the applicant's husband and family pension to the applicant in terms of the Railway Services (Pension) Rules, 1993. Para 309 of the Manual of

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Railway Pension Rules, 1950 or the same rule
No. 65 of Railway Services (Pension) Rules, 1993.


2. Learned counsel for the applicant has argued that although the applicant's husband had been dismissed from service under Discipline and Appeals Rules, he had been acquitted in the Appellate Session Court. In view of the fact that the condition of the Railway employee's family, i.e. applicant and her children is very poor, the applicant is entitled to compassionate allowance in terms of the above provisions of the Pension Rules.

3. The learned counsel for the applicant has also argued that the applicant has been writing for grant of compassionate allowance to her husband but the administration has not cared to send a reply.

4. The respondents have filed a written reply. They have brought out that the applicant was held responsible for causing a serious accident and penalty of dismissal was awarded to the applicant's husband in 1981. The applicant's husband had also filed an OA.No.639/90 challenging the order of dismissal which was dismissed by the Tribunal. The respondents have further brought out that the representation of the applicant 24.3.1989 was considered by the competent authority and he was given a reply on 5.9.1989. The learned counsel for the respondents has argued that the applicant's husband had been punished for various offences which have been brought out in Para 8 of the written reply. Thus, even on the basis of record of service, it will not be justified for grant of any compassionate allowance.

5. The grant of compassionate allowance is governed under para 65 of Railway Service (Pension) Rules. This para gives absolute discrimination for grant of allowance and each case should be considered on its merit. Learned counsel for the respondents ^{'s husband} has argued that the applicant ~~was~~ dismissed in 1981 and it is now too late for the administration to consider the claim of the applicant. The applicant has started writing about compassionate allowance in 1995 but the administration had considered the representation of applicant's husband which he had submitted in 1989 concerning his dues. It is also brought out by the respondents that the applicant's husband was required to pay the Railways about Rs.3191.15 towards rental dues etc.

6. After considering the arguments of both the counsels, I am of the view that the case of the applicant is barred by limitation as the applicant's husband ^{was} dismissed from service in 1981 and in his life time the applicant's husband had not made any request for grant of compassionate allowance under Para 309 of the Pension Rules. On merit also in view of the various punishments which had been awarded to the applicant's husband as brought out by the respondents in Para 8 of the written reply, I am of the view that this is not a fit case where the Tribunal is required to intervene. The OA. is, therefore, dismissed both on limitation as well as on merit. No orders as to costs.


(P.P. SRIVASTAVA)
MEMBER (A)