

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.807/2000

Dated this the 25th day of July 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Smt.Ranjana Sudhakar Bhondve,
W/o late Sudhakar Sahadu Bhondve,
Ex-Durwan, Ordnance Factory,
Dehuroad, Pune,
R/at C/o Shantaram Baban Botre,
Yelwadi of Dehu, Taluka Khed,
Rajguru Nagar, Dist.Pune.

...Applicant

By Advocate Shri J.M.Tanpure

vs.

1. Union of India
through the General Manager,
Ordnance Factory, Dehuroad,
Pune.
2. The Director General of
Ordnance Factories,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.
3. The Secretary,
Ministry of Defence,
South Block,
New Delhi.

...Respondents

By Advocate Shri R.R.Shetty
for Shri R.K.Shetty

..2/-

8.1.87

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking a declaration that applicant is entitled for Compassionate Allowance under Rule 41 of C.C.S. (Pension) Rules, 1972 or family pension.

2. The applicant's husband, namely, Sudhakar Sahadu Bhondve was appointed as Durwan from 21.7.1983 by the Respondent No.1 on probation which was extended from time to time and his services were terminated w.e.f. 21.3.1987, expired on 6.7.1993 leaving behind the applicant - widow of the employee, elder son Vishwas 17 years old, Kaluram 15 years old and Sandeep 12 years old physically handicapped by one leg.

3. The grievance of the applicant is that due to death of her husband no proper education was afforded to her sons, she is pulling on her life along with her sons on the mercy/pity/compassion of her relatives and as such not in a position to receive even two square meals/daily needs. She preferred an application dated 13.12.1999 addressed to the Respondents No.1 and 2 and to the President of India seeking compassionate allowance under Rule 41 of CCS (Pension) Rules, 1972 or family pension. Vide letter dated 16.12.1999 the President's Secretariat asked the Respondent No. 3 to take appropriate action and in pursuance thereof the Respondent No. 3 rejected her application.

P. S. Jain

..3/-

4. The claim of the applicant is being resisted by the respondents.

5. Rule 41 of CCS (Pension) Rules, 1972 is as under :-

"41. Compassionate allowance

(1) A government servant who is dismissed or removed from service shall forfeit his pension and gratuity :

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension."

Perusal of the same makes it clear that for application of this Rule, the Government servant must be either dismissed or removed from service. The applicant is neither a dismissed nor removed employee but his services were terminated w.e.f. 21.3.1987.

6. Facing this situation, the learned counsel for the applicant argued that when a dismissed or removed Government servant is entitled for compassionate allowance, an employee whose services were terminated stands on a better footing in comparison to an employee who is dismissed or removed. Hence, he is entitled to the relief asked for. He further argued that it is violation of Article 14 and 16 of the Constitution of India. A dismissed/removed employee and an employee whose services have been terminated cannot be said to be the employees forming one Group. They are not equal one. Hence violation of Article 14 and 16 of the Constitution does not arise.

P. S. N.

..4/-

7. Surprising enough, on the one hand the applicant claims compassionate allowance under Rule 41 of the CCS (Pension) Rules, 1972 and on the other hand challenges the provisions contained under Rule 41 of CCS (Pension) Rules. Such a contrary plea cannot be allowed to stand.

8. The applicant's husband did not retire after qualifying service which entitled him to any pension. Hence, the applicant is not entitled to any family pension.

9. In the result, I do not find any merit in the OA., it is liable to be dismissed and is dismissed accordingly with cost amounting to Rs.650/- (Rs.500/- as Legal Practitioner's fee and Rs.150/- as other expenses) payable by the applicant to the respondents within three months from the date of receipt of the copy of this order.

Mr. J.
(S.L. JAIN)

MEMBER (J)

mrj.