

Central Administrative Tribunal
Mumbai Bench

1. OA No.263/2000
2. OA No.264/2000

Mumbai this the 11th day of June, 2003.

Hon'ble Mr. V.K. Majotra, Member (Admnv)
Hon'ble Mr. Shanker Raju, Member (Judl)

OA No.263/2000

Shri B.R. Joil,
S/o Sh. Ramchandra Sadashiv Joil,
R/o Room No.22, Janata Colony,
Near 44-50 Bust-Stop (BEST),
Worli Village, Mumbai-400 025.

-Applicant

OA No.264/2000

Shri Chandrakant Vasudeo Shirsat,
S/o Vasudeo Shirsat,
R/o Room No.12, Thakurchawl,
behind Seep Z, Quarters,
Chakala M.I.D.C. P.O.,
P.O. Mumbai-400 093

-Applicant

(By Advocate Shri S.P. Kulkarni)

Versus

Union of India through:

1. Senior Supdt. of Sorting,
Railway Mail Service, Air Mail-
Sorting Division,
at P.O. Mumbai-400 093.
2. Director of Postal Services (B.D.),
Office of the Chief Postmaster General,
Maharashtra Circle,
Old G.P.O. Building, 2nd Floor,
Fort, Near C.S.T. C. Railway,
P.O. Mumbai-400 001.
3. Member (P),
Postal Services Board,
Department of Posts,
Govt. of India, Dak Bhawan,
Parliament Street,
P.O. News Delhi-110 001.

-Respondents

(By Advocate Shri V.S. Masurkar)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

As identical questions of facts and law are involved, these OAs are disposed of by this common order.

2. At the outset, learned counsel of applicants has restricted his claim to the relief claimed in para 8 (d) of the O.A., i.e., consideration for compassionate allowance, as provided under Rule 41 of the CCS (Pension) Rules, 1972.

3. Applicants in these OAs have been proceeded against in a major penalty on the charges of acceptance of unauthorised mail bags in transit, which is violative of Rules 105 and 147 of P & T Manual, Volume VII. In the light of their voluntary admission of the charges in unequivocal and absolute terms they have been held guilty and were imposed the severest punishment. It is further contended by the learned counsel that the aspect of granting compassionate allowance to applicants has not been considered by respondents despite applicants have rendered qualifying service of 28 years as well as 30 years respectively.

4. On the other hand, respondents' counsel vehemently opposed the contentions and stated that for such a severest misconduct compassionate allowance cannot be accorded to applicants.

5. We have carefully considered the rival contentions of the parties and perused the material on record. Rule 41 of the CCS (Pension) Rules, 1972, provides that in case of dismissal or removal of a government servant whose pension and gratuity has been forfeited, on special consideration in a deserving case sanction a compassionate allowance not exceeding 2/3rd of pension or gratuity and as per Office Memo No.3(2)-R-II/40 dated 22.4.1940 the following guide-lines have been issued:

"(1) Guiding principles for the grant of Compassionate Allowance.--It is practically impossible in view of the wide variations that naturally exist in the circumstances attending in each case, to lay down categorically precise principles that can uniformly be applied to individual cases. Each case has, therefore, to be considered on its merits and a conclusion has to be reached on the question whether there were any such extenuating features in the case as would make the punishment awarded, though it may have been necessary in the interests of Government, unduly hard on the individual. In considering this question it has been the practice to take into account not only the actual misconduct or course of misconduct which occasioned the dismissal or removal of the officer, but also the kind of service he has rendered. Where the course of misconduct carries with it the legitimate inference that the officer's service has been dishonest, there can seldom be any good case for a compassionate allowance, but special regard is also occasionally paid to the fact that the officer has wife and children dependent upon him, though this factor by itself is not, except perhaps in the most exceptional circumstances, sufficient for the grant of a compassionate allowance."

6. Having regard to the above, as applicants have not made any request for compassionate allowance the OAs are disposed of with the direction to applicants to file their respective representation for compassionate allowance before the respondents, within four weeks from the date of receipt of a copy of this order, thereupon, respondents on receipt of the same shall consider the claim of applicants for compassionate allowance strictly in accordance with the guidelines and dispose of the same by a detailed and speaking order to be passed within one month thereafter. No costs.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Member (A)

'San.'