

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

R.P. NO.38/2004
IN
O.A. NO.541/2000

This the 24th day of August, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI S. G. DESHMUKH, MEMBER (J)

Smt. Sakhubai Balu Shelke,

... Applicant

-versus-

Senior Section Engineer (Signal and Maintenance),
Central Railway, Pune.

... Respondents

ORDER (BY CIRCULATION)

Hon'ble Shri V. K. Majotra, Vice-chairman (A) :

Through this application, review of order dated 16.6.2004 in OA No.541/2000 has been sought. Among other things, it has been stated that Tribunal had directed the respondents to consider applicant's case for family pension under the provisions of C.C.S. (Pension) Rules, 1972 though Railway Services (Pension) Rules, 1993 are applicable in the matter. This typographical error certainly requires correction. As such, paragraph 4 of the Tribunal's order dated 16.6.2004 be substituted as under:

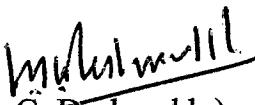
"4. It has been contended on behalf of the respondents that applicant was charge sheeted for major penalty vide memorandum dated 19/7/1989. This was acknowledged by him on 18/8/1991. He did not submit a written statement and failed to attend the enquiry on several dates between 20/9/1989 to 30/11/1989. As such the enquiry was held *ex parte*. The proceedings of the enquiry were sent to the delinquent giving him opportunity to submit his representation under Registered Post A.D. which was acknowledged by the delinquent on 17/1/1991. He did not submit any explanation and the punishment of removal from service was imposed on 30/7/1992. These orders were sent to him on 6/8/1991. These contentions of the respondents have remained unchallenged.

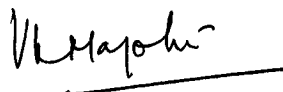
We have also perused the records produced by the respondents. They confirm their contentions. No proof has been submitted by the applicant in rebuttal. As such, the applicant has no case for justification of reduction in penalty. However, in view of the fact that applicant seems to have rendered a service of about 15 to 17 years, before removal from service and had been suffering from a serious disease, it is a case of undue hardship where respondents could relax the requirement of Rule 107 of the Railway Services (Pension) Rules, 1993 and consider applicant's case for family pension under Rule 65 of the said Rules provided that the deceased government employee had rendered sufficient service for family pension. In this connection, reliance is placed on order dated 30/3/2001 in Writ Petition 296 of 2001 Smt. Sumati Kolte v. Union of India & Ors. As such, in the circumstances, we direct the respondents to consider the applicant's case for family pension under Rule 65 of the said Rules w.e.f. 26/7/2000 when the present OA was made."

2. The other grounds taken in this application are merely an attempt to re-argue the case which does not fall within the scope and ambit of review.

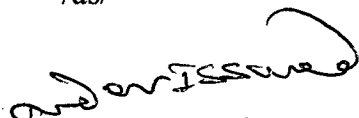
3. The review application is allowed to a limited extent as above.

Necessary corrigendum be issued.


(S. G. Deshmukh)
Member (J)


(V. K. Majotra)
Vice-Chairman (A)

/as/


on 2/9/04
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