

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.265/1995.

Wednesday, this the 28th day of February, 2001.

Coram: Hon'ble Justice Shri Ashok Agarwal, Chairman,
Hon'ble Smt. Shanta Shastry, Member (A).

Smt. R.G. Awarkar,
R/o H.No. 4434,
Chatur sampradaya Akhada,
Panchvati,
Nasik - 422 003.
(By Advocate Shri S.P. Inamdar)

...Applicant.

Vs.

1. Union of India through
The Secretary,
Ministry of Urban Development,
Nirman Bhavan,
2. The Director of Printing,
Nirman Bhavan,
Maulana Azad Road,
New Delhi - 110 001.
3. The General Manager,
Govt. of India Press Gandhinagar,
Nasik - 422 006.
4. The Attorney General of India,
Supreme Court Compound,
New Delhi.

...Respondents.

(By Advocate Shri R.K. Shetty)

: O R D E R (ORAL) :

{Per Smt. Shanta Shastry, Member (A)}

The applicant in this case is the wife of one Shri Govind Eknath Awarkar who was serving in the Government of India Press at Nasik from 24.9.1963 as a Mechanic. He was discharged from service on the strength of a certificate from the Civil Surgeon, Nasik for invalidation on 8.2.1982.

2. The applicant has now approached this Tribunal seeking for payment of terminal benefits to her as the legal

...2.

29

-2-

guardian of her husband with interest thereon, as well as, paying of compensation allowance in lieu of regular pension to her.

3. The Learned Counsel for the applicant admits that so long as the husband is alive the applicant cannot claim any family pension. Certain Notifications were issued by the Government of India from time to time regulating Pension and Family Pension. According to O.M. dt. 14.4.1987 of the Department of Pension and Pensioners Welfare : a temporary government servant who retired on superannuation or on being declared as permanently incapacitated for further government service by the appropriate medical authority would have been eligible for grant of superannuation/invalid pension, retirement gratuity and family pension at the same scale as admissible to permanent employees under the CCS (Pension) Rules, 1972, provided he had rendered temporary service of not less than 10 years. Thereafter, a further Notification was issued on 14.1.1988 stipulating that a government servant either should have been in service as on 1.1.1986 or thereafter and only in such circumstances the employee would be eligible for grant of superannuation or invalid pension after having rendered not less than 10 years of service as a temporary/quasi permanent government servant. In the present case, the applicant's husband is not covered by this notification as he was not in service as on 1.1.1986, having been discharged on 8.2.1982. Thus, the applicant's husband not being entitled to any pension, the question of family pension does not arise in her

...3.

(21)

-3-

case. The Learned Counsel submits that at least the applicant should get compensation allowance in lieu of pension. The Rules in this respect again ~~do~~ not permit it, as Rule 41 of CCS (Pension) Rules, 1972 relating to compassionate allowance states that "A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity:

Provided that the authority competent has ~~to~~ dismissed or removed 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". In the present case, the applicant's husband was neither dismissed nor removed from service. Therefore, this provision is also not applicable to provide the relief to the applicant.

4. Though the applicant's husband was discharged in 1982 and the notifications came to be issued in 1987 and 1988, the applicant had not moved in the matter. Moreover, the applicant served a legal notice on the respondents only in 1992 after obtaining Guardianship Certificate. There has been considerable delay in applicant approaching this Tribunal. The applicant has approached in 1995. Hence, the application suffers from delay and laches. No doubt, the applicant has filed M.P. for condonation of delay, but the reasons given are not at all satisfactory to consider the condonation of delay in

h

...4.

22

-4-

this case. In our considered view, the applicant is not entitled to the relief sought for, both on merits, as well as, on the grounds of delay and laches. We therefore, dismiss the OA without costs.

Shanta S-

(SHANTA SHASTRY)
MEMBER(A)

Ashok Agarwal
(ASHOK AGARWAL)
CHAIRMAN

B.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

24

R.P.No.26/2001 in
O.A.No.265/95

Dated: 22/6/2001

CORAM:HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

Shri Govind Eknath Awarkar & Anr. ... Review Petitioner

V/s.

Union of India & 3 Ors. ... Respondents.

(ORDER)

Per Smt.Shanta Shastry, Member(A)

This Review petition is filed against the order dated 28/2/2001 in OA 265/95 which was dismissed both on merits as well on ground of delay and laches.

2. We have perused the groundstaken by applicant in the Review Petition. The applicant has not put forth any new facts or any new arguments in the review petition. Infact, the applicant has tried to re-argue the case through the review petition.

3. In our considered view, no review is called for in this case. Accordingly, the Review Petition is rejected.



(SHANTA SHASTRY)
MEMBER(A)


(ASHOK AGARWAL)
CHAIRMAN

abp