

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

18

C.P. NO.: 2/2000 IN O.A.No. 196/95.

Dated this Monday, the 8th day of January, 2001

CORAM : Hon'ble Shri Kuldip Singh, Member (J)

Smt. Afroza Sakhauddin Shaikh ... Petitioner.  
(By Advocate Shri S. S. Karkera) (Original Applicant)

Versus

Union of India & others ... Respondents.  
(By Advocate Shri P.M. PRADHAN)

TRIBUNAL'S ORDER :

Heard on Contempt Petition.

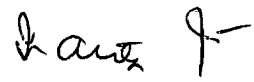
2. The Learned Counsel appearing for the applicant submits that the particular Accounts Officer, while implementing the orders passed by this Tribunal in this O.A., on going through the Service Book of the deceased Government employee has implemented the order in a truncated manner and he wants to deny the relief to the widow of the deceased.

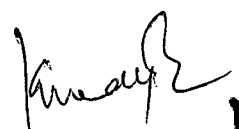
3. On the contrary, the Learned Counsel for the respondents submits that the Government employee whose pensionary benefits are being claimed by the applicant, has absented himself in an unauthorised manner for more than a period of five years. The said absence period was treated as 'dies-non' period and as per rules F.R. 18 and 27 of the Pension Rules, the service rendered by the Government servant prior to the dies-non period should be forfeited and only thereafter the period is to be counted to see whether the same qualifies for pensionary benefit.

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period <sup>resp.</sup> and have found that the deceased was not entitled to pension, as he has not rendered the qualifying service after his unauthorised absence period which was treated as 'dies-non' period. The Learned Counsel for the respondents also submits that there is no wilful disobedience on the part of the respondents and hence contends that the contempt petition be dismissed.

4. We have heard the Learned Counsel appearing on both sides and have also gone through the directions given in the O.A. From the perusal of para 8 of the order in the O.A., we find the Tribunal had directed the respondents to fix the pension and family pension payable to the applicant and his wife from 17.10.1990 and pay all the arrears, including the retirement benefits. Besides that, it was also stated that whatever amount is due shall be paid to the legal representative of the applicant. Thus, in a way, the Tribunal while deciding the O.A. had given a direction to the respondents to calculate the amount due which is payable to the applicant and his legal representatives. This could be only taken to mean that the respondents were under obligation to calculate the arrears which were due and payable as per rules. We find that there is no wilful disobedience on the part of the respondents in implementing the order. Hence, the contempt petition has no merits and the same is accordingly dismissed. However, this order will not be an impediment in the way of the applicant to agitate his grievance through a separate O.A. within a period of two months as prayed.

  
(Smt. SHANTA SHASTRY)  
M(A)

  
(KULDIP SINGH)  
M(J)