

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:250/1997

Dated this the 17th day of October, 2001

HON'BLE SMT.LAKSHMI SWAMINATHAN, - VICE CHAIRMAN
HON'BLE SMT.SHANTA SHASTRY - MEMBER(A)

Smt.Vatsala Jagannath Shewale,
wife of Jagannath Nathuji Shewale,
Ex-offg Group 'D' Pune City,
r/o. Anand Niwas, Zopadpatti,
Mundhwa, Pune - 411 036.

... Applicant

By Advocate Mrs.K.U.Nagakatti

V/s.

1. Government of India through
The Secretary,
Posts & Telegraph Department,
New Delhi.
2. Sr.Superintendent of Post Offices,
Pune City West Division,
Lokmanyagar, Pune-411 030.
3. Assistant Superintendent of Post Offices,
Town Sub Offices No.1,
Pune City West Division,
Pune - 411 001.

... Respondents

By Advocate Shri P.M.Pradhan

ORAL ORDER

Per Smt.Shanta Shastri, Member(A).

The applicant who is the wife of Jagannath Shewale has filed this application which is the original application following the one filed by Shri Jagannath Shewale i.e.OA No.397/93 which was disposed of by the Tribunal vide order dated 27/8/93. In OA 397/93, the Tribunal had noted that the applicant therein had joined service in 1966 and had rendered about 24 years of service prior to the impugned order of removal from service in 1990. In

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the circumstances it was observed that it is for the appropriate authority to consider what type of punishment must be imposed for lapses i.e. unauthorised absence from duty and further observing that the applicant was of unsound mind, the Appellate Authority's order was set aside. A further direction was given to the appellate authority to dispose of the appeal in accordance with law. Thereafter, the respondents passed the order dated 11/7/94 reducing the punishment order from removal from service to one of compulsory retirement with regard to the charge of unauthorised absence levelled against the applicant Shri Jagannath Shewale in OA 397/93.

2. Mrs.K.U.Nagarkatti, learned counsel for the applicant has submitted that the applicant continues to be of unsound mind and is incapable of appreciating the relevant facts or the situation. It is in those circumstances that learned counsel submits that the present applicant who is the wife of the aforesaid unsound employee has filed this application. She states that on further verification most of the amounts due by way of retiral benefits following the compulsory retirement order of the ex employee have been received by the applicants.

3. Shri P.M.Pradhan, learned counsel for the respondents has however submitted after verifying the records available with the department that all the dues have been paid to the applicant in the earlier OA. In the circumstances, Mrs.Nagarkatti submits that she does not press this claim.

4. One of the main reliefs prayed for by the learned counsel for the applicant is that the respondents are

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treating the compulsory retirement as a punishment order under the provisions of CCS(CCA) Rules 1965. The former employee's family is in extreme financial distress and difficulties. She has emphasised on the fact that the former employee could have been medically boarded out but she is not pressing that ground at this stage. She has further submitted that the respondents may be directed to consider any ward/family of the ex-employee for compassionate appointment in relaxation of the rules taking into account the fact that the order of compulsory retirement had been given to him even though the person was of unsound mind.

5. Shri P.M.Pradhan, learned counsel has fairly submitted that without quoting this case as a precedent, the aforesaid submission of the learned counsel for the applicant could be considered if so directed by the Tribunal.

6. Taking into account the peculiar facts and circumstances of the case and particularly that the applicant in OA-397/93 had rendered about 24 years of service prior to the earlier order of removal passed in 1990 which has been later modified to one of compulsory retirement in 1994, we consider that this is a fit case where one dependent of the ex-employee should be considered for compassionate appointment in relaxation of the rules subject to the other conditions of eligibility being fulfilled. We however make it clear that we have made these observations taking into account the peculiar facts and circumstances of the case including the fact that the ex employee continues to be of unsound mind.

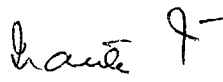
7. In the result, for the reasons given above, the OA is disposed of with following directions:-

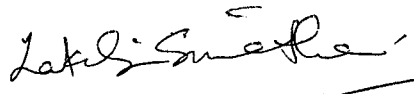
i) The respondents shall, taking into consideration the particular facts and circumstances of the case referred to above, one of the ex employee's family members for appointment on compassionate grounds subject to their fulfillment of eligibility for such appointment in relaxation of rules;

appointment on compassionate grounds subject to their fulfillment of eligibility for such appointment;

ii) For the above purpose, the family of the ex-employee shall make a representation to respondent no.2 within one month from the date of receipt of copy of this order. Thereafter, the respondents shall consider the same in accordance with the rules and instructions and as per the directions referred to above and take an appropriate decision in the matter with intimation to the concerned parties.

No orders as to costs.


(SMT. SHANTA SHASTRY)
MEMBER(A)


(SMT. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN