

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 334/98

Date of Decision: 6.1.1999

Smt. Shalini Bhaga Laxman Khetade Applicant.

Shri K.B. Talreja Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri V.S.Masurkar. Advocate for Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri

(1) To be referred to the Reporter or not? W

(2) Whether it needs to be circulated to W other Benches of the Tribunal?

R. G. Vaidyanatha
(R. G. Vaidyanatha)
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY:1

Original Application No. 334/98

Wednesday the 6th day of January 1998

COORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Smt. Shalini Bhaga Laxman Khetade
C/o Shri K.B. Talreja,
'Phylwadi' Plot No.16,
Dev Samaj Road, Netaji
Ulhasnagar

... Applicant.

By Advocate Shri K.B. Talreja

V/s.

Union of India through
General Manager
Central Railway,
Mumbai CST,
Mumbai.

The Chief Workshop Manager
Matunga Workshop
Central Railway
Mumbai.

... Respondents.

By Advocate Shri V.S.Masurkar.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

This is an application filed by the applicant for early release of Pension, DCRG and other service benefits, due to her husband. The respondents have opposed the application. I have heard counsel for both sides regarding admission.

2. The applicant claims to be the wife of Shri Bhaga Laxman Khetadi who was a Painter working in Paint Shop, Matunga, Bombay. According to the applicant her husband quit the service with effect from 21.3.1985. Ultimately he died on 2.1.1991. It is therefore stated that the applicant is entitled to pension, DCRG and other service benefits.

...2...

The respondents in their reply have opposed the application on many grounds. The main ground is that the deceased employee Shri Bhaga Laxman Khetadi had not retired or resigned from service. But he was removed from service after holding the disciplinary enquiry as per order of punishment dated 21.3.1985. It is therefore stated that since the official ~~had~~ been removed from service the applicant cannot claim ~~any~~ pensionary benefits.

3. The respondents have produced the punishment order dated 19.3.1985 which clearly shows that for the mis-conduct of unauthorised absence for about two months the Disciplinary Authority has imposed a penalty of removal from service. At this stage we are not concerned with the correctness or legality of the order of punishment. If once rightly or wrongly Shri Bhaga Laxman Khetade is removed from service, the applicant cannot claim for pension or other service benefits as per rules. Whether the applicant can challenge the order of removal from service is a different issue and it does not ~~arise~~ for consideration in this case.

The learned counsel for the applicant made a submission that even if there is an order of removal from service, the applicant is entitled to compassionate allowance as per Pension Rules. But ~~there are~~ no pleadings in the present O.A. For any such relief, the applicant may make a representation to the Railway Administration and if any adverse order is passed,

the applicant can approach this Tribunal. Hence that question whether the applicant is entitled to compassionate allowance as per Pension Rules or not is left open. Similarly the question of whether the order of removal from service is good or bad and whether the applicant has any right to challenge the same is also left open. As things stand the claim for pensionary benefits is not maintainable in view of the order of removal from service.

4. In the result the application is disposed of at the admission stage as not maintainable subject to the observations made above. In the circumstances of the case there will be no order as to costs.

R. G. Vaidyanatha

(R.G. Vaidyanatha)
Vice Chairman

NS