

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 246/98

Date of Decision: 15.3.1999.

Smt. Husharibai Safaiwali Applicant.

Shri B. Dattamurthy. Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri R.R.Shetty for Shri R.K.Shetty. Advocate for
Respondent(s)

CORAM:

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

Hon'ble Shri. D.S. Baweja, Member (A)

- (1) To be referred to the Reporter or not? NO
- (2) Whether it needs to be circulated to NO other Benches of the Tribunal?

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

NS

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

Original Application No. 246/98

Monday the 15th day of March 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member (A)

Smt. Husharibai Safaiwali
Residing at
Military Farm
P.O. Deolali, Taluk
District Nasik.

... Applicant.

By Advocate Shri B.Dattamurthy.

V/s.

Union of India through
D.D. Military Farm
Southern Command,
Kirkee, Pune.

Officer in charge
Military Farm,
Deolali, Nasik.

The Secretary
Ministry of Defence,
South Block, New Delhi. ... Respondents.

By Advocate Shri R.R. Shetty for R.K. Shetty.

O R D E R (ORAL)

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

This is an application filed by the applicant seeking a direction to the respondents that applicant should be deemed to have retired on medical grounds on 20.1.1995. Respondents have filed reply opposing the application. We have heard counsel for both sides regarding admission.

2. It appears that the applicant gave a medical certificate stating that due to diminished vision she cannot work. The respondents have not taken any decision in the matter. That is why the applicant has approached this Tribunal in 1998 praying for declaration that she must be deemed to have retired on 20.1.1995.

The respondents have stated in their reply that the applicant has received full pay till she retired on superannuation on 31.7.98.

The learned counsel for the applicant also admitted that the applicant has received full pay and also stated that the applicant was not working but her son was working in place of the applicant.

There is no document on record to show that the applicant's son was working in place of the applicant.

3. When the applicant has received the full pay till 31.7.1998, her request that she should be retired on medical ground on 20.1.1995 cannot be accepted. As regarding the question of repayment of full salary which she has received, the learned counsel for the applicant, on instructions of the applicant, stated that the applicant is not in a position to repay the full salary which she has received in order to claim the benefit of deemed retirement in 1995. Therefore we cannot do anything in the matter.

The applicant has received full salary ^{therefore} till 31.7.1998. Her prayer is that she should be declared to have retired on medical ground on 20.1.1995 cannot be accepted.

4. The learned counsel for the applicant states that the respondents have not taken any steps on applicant's request for retirement on medical ground from January 1995 onwards. We ^{there is} find that some in-action on the part of the

respondents in not taking any action on the request of the applicant. We direct the concerned authority to make an informal enquiry and find out whether there is any negligence or in-action on the part of any official and if it is seen that ^{there was} such negligence or in-action on the part of ^{any} the official he may be ⁱⁿ ~~under with~~ instituted disciplinary enquiry and take action according to law.

5. In the result the O.A. is disposed of at the admission stage. No order as to costs.

D.S. Bawali
(D.S. Bawali)
Member (A)

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

NS