

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 101/2001
T.A. No.

199

DATE OF DECISION 14.9.2001

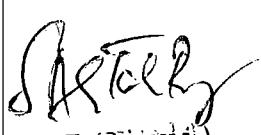
Vimla Devi Petitioner
Mr. R. S. Sharma Advocate for the Petitioner (s)
Versus
Union of India & Anr. Respondent
Mr. T. P. Sharma Advocate for the Respondent (s)

CORAM :

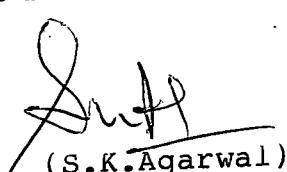
The Hon'ble Mr. S.K. Agarwal, Member (J)

The Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(S.A.T. Rizvi)

Member (A)


(S.K. Agarwal)

Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.101/2001

Date of order: 14/9/2001

Vimla Devi, W/o late Sh.Gagan Raj Singh, R/o
Ramchandra ji ki Dhani, Panchayat Samiti Bandikui,
Distt.Dausa.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly.
Churchgate, Mumbai.
2. The Divisional Rly. Manager, W.Railway, Kota.

...Respondents.

Mr.R.S.Sharma : Counsel for applicant
Mr.T.P. Sharma : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.S.A.T.Rizvi, Administrative Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

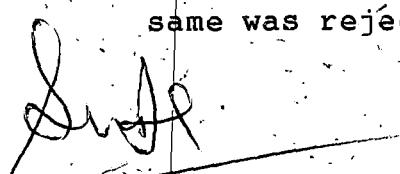
In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash and set aside the impugned order Anxx.A1 by which the representation of the applicant was rejected and to direct the respondents to sanction compassionate allowance w.e.f. 27.12.91 and to pay interest.

2. Facts of the case as stated by the applicant are that Shri Gagan Raj Singh, husband of the applicant was appointed as Ticket Collector in the year 1985 and was posted in Kota Division of W.Rly. In 1977, a case under Sec.376 IPC was registered against Shri Gagan Raj Singh and he was tried by Addl.District & Session Judge, Kota who acquitted him but some passing remarks were made against Sh.Gagan Raj Singh in the judgment and on the basis of those

remarks, enquiry was held and he was dismissed from service vide order dated 3.9.1979. Shri Gagan Raj Singh challenged that order of dismissal before the Addl. Munsif, Jaipur West from where it was transferred to this Tribunal and registered as T.A No.9/87. But during the pendency of this case, Shri Gagan Raj Singh expired on 27.12.91 and the aforesaid T.A was rejected on 19.11.92 thereby penalty of dismissal imposed upon Shri Gagan Raj Singh became final. It is stated that the applicant being legal heir of deceased Gagan Raj Singh, approached respondent No.2 to sanction compassionate allowance but no action was taken, therefore, she filed O.A No.536/99 which was disposed of by this Tribunal vide order dated 11.9.2000, directing respondent No.2 to dispose of the representation filed by the applicant by a speaking order but respondent No.2 rejected the representation of the applicant in a slip-shod and arbitrary manner by a nonspeaking order.

3. The ground taken by the applicant in this O.A for sanction of compassionate allowance is that the applicant is poor, uneducated and Scheduled Tribe lady having no means of livelihood therefore deserves special consideration for grant of compassionate allowance and thereby the applicant is entitled to compassionate allowance under the provisions given in para 309 of Railway Pension Rules, 1950.

4. Reply was filed. It is stated in the reply that Sh. Gagan Raj Singh was dismissed from service in the year 1979 and against this order Sh. Gagan Raj Singh did not file any appeal before the competent authority but only a civil suit was filed before the Addl. District & Session Judge, Jaipur City, which was transferred to this Tribunal and the same was rejected by this Tribunal vide order dated 19.11.92



therefore the order imposing penalty of dismissal upon Shri Gagan Raj Singh has become final. It is stated that Shri Gagan Raj Singh died during the pendency of the civil suit, therefore, in view of the provisions given in para 309 of MRPR, the applicant is not entitled to compassionate allowance and in this way, the applicant has no case for quashing the impugned order as well as grant of compassionate allowance.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Rule 309 Railway Pension Rules, 1950 reads as follows:

"309 - Removal or dismissal from Service,- No pensionary benefit may be granted to a Railway servant on whom the penalty of removal from service is imposed; but to a Railway servant so removed or dismissed, the authority who removed or dismissed him from service may award compassionate grant(s) - corresponding to ordinary gratuity and/or death cum retirement gratuity - and/or allowances corresponding to ordinary pension - when he is deserving of special consideration; provided that the compassionate grant(s) and/or allowance awarded to such a Railway servant shall not exceed two-thirds of the pensionary benefits which would have been admissible to him if had retired on medical certificate.

7. The above rule provides that the competent authority can grant compassionate allowance to an official in a deserving case on special consideration.

8. Identical provisions are also given in Rule 41 of

S. Venkateswaran

CCS(Pension) Rules 1972 which reads as under:

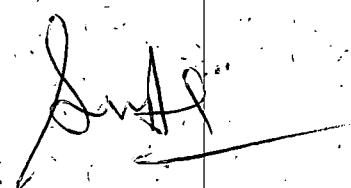
"41. Compassionate allowance:

(1) A govt servant who is dismissed or removed from service shall forfeit his pension and gratuity;

Provided that the authority competent to dismiss or remove 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).

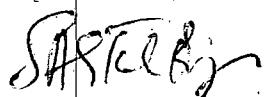
(2) A compassionate allowance sanctioned under the provisions of sub-Rule(1) shall not be less than the (amount of Rupees sixty permensem).

9. We have perused the provisions contained in the aforesaid Rule and we are of the considered opinion that the applicant is not entitled to compassionate allowance under Rule 309 of Railway Pension Rules, 1950. As the official Shri Gagan Raj Singh was dismissed from service in 1979 for grave charge and the order of dismissal has become final, therefore, Sh.Gagan Raj Singh was not entitled to any pension. Moreover, this O.A has been filed after 21 years of dismissal of Shri Gagan Raj Singh. As Shri Gagan Raj Singh expired in the year 1991, his widow is not entitled to any compassionate allowance under Rule 309 of the Pension Rules, 1950. An application under this Rule is maintainable only by an official who has been dismissed or removed from service. No special circumstances for grant of compassionate allowance could be established by the applicant therefore, in our considered view, the applicant has no case for grant of compassionate allowance and we do not find any basis to



interfere in the impugned order passed by respondent No.2.

10. We, therefore, dismiss this O.A with no order as to costs.



(S.A.T.Rizvi)

Member (A).



(S.K.Agarwal)

Member (J).