

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Order: 20/11/2002

RA 20/2002 (OA 508/99)

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Sr.Divisional Engineer (East), W/Rly, Jaipur.
3. Asstt.Engineer, W/Rly, Jaipur Division, Alwar.

... Applicants

Versus

Heera Lal Sharawan (since deceased) represented through his wife Smt.Kajodi Devi, Village Badial Khurd, Bandikui, District Dausa (Rajasthan).

... Respondent

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.M.L.CHAUHAN, JUDL.MEMBER

For the Applicants

... Mr.B.K.Sharma

For the Respondent

... None

O R D E R

PER MR.A.P.NAGRATH

This Review Application has been filed with the prayer that the order dated 21.9.2001, passed by the Tribunal in OA 508/99, be recalled and reviewed. The only ground for making such a prayer is that on the date the order was passed by the Tribunal, the applicant in the OA i.e. Heera Lal was not alive and that he had expired on 9.9.2001. A death certificate in support of this occurrence has also been brought on record as Ann.A/3 to this Review Application. Ann.A/4 is an application dated 18.4.2002 submitted by the widow of late Heera Lal to the Divisional Railway Manager, Jaipur, for payment of settlement dues and family pension etc.

2. The matter under scrutiny in OA 508/99 was the order of penalty dated 30.8.97. The said OA had been decided with the operative part of the order as under :

"In view of the above, we allow this OA and quash the impugned order dated 30.8.97, imposing punishment, by which applicant has been removed from his service. The respondents are directed to reinstate the applicant in service forthwith. Respondent department will be at liberty to conduct inquiry against the applicant on the basis of charge sheet, already issued, and inquiry shall be completed within a period of six months from the date of receipt of a copy of this order by giving full opportunity of hearing to the applicant and following the rules/procedure. The applicant is expected to co-operate in the inquiry proceedings. No order as to costs."

3. Respondents' plea is that in view of the fact that the applicant in

the OA is no more alive, the order of the Tribunal cannot be implemented and needs to be reviewed. The documents brought on record and the submission made before us by the learned counsel for the applicants in this RA (respondents in the OA) is that the department had taken a decision to implement the order of the Tribunal. While, in the process, it came to the notice that Shri Heera Lal had expired on 9.9.2001 i.e. prior to the date of decision by the Tribunal which was 21.9.2001. In view of this extraordinary situation, the learned counsel pleaded that the department is unable to implement the directions of the Tribunal and that the order needs to be reviewed.

4. Obviously, it is an extra-ordinary situation before us. On the date, the matter in OA was heard and the order passed by us, the fact of the applicant's (in the OA) death was not known either to the respondents or even the learned counsel for the applicant. The matter was heard and decided on merits and the penalty imposed on Shri Heera Lal (applicant in the OA) had been quashed and set aside and the department was directed to take him back on duty forthwith. However, liberty had been granted to conduct inquiry against the applicant on the basis of charge-sheet already issued. The question which now arises is that in the face of the facts, as have come before us, can the order be treated as an effective order and whether can it be implemented.

5. We have given our anxious consideration to the whole matter and the related circumstances. We find that the order in OA was in three parts i.e. i) the penalty order had been quashed and set aside, ii) the respondents were directed to reinstate the applicant forthwith, and iii) the respondents had been given liberty to proceed further in the matter after inquiring into the charge-sheet. Obviously, the first part of the order that the order of penalty had been quashed has come into force as soon as the order has been delivered. Meaning thereby that it would have no effect on the service rendered by the applicant till then. In fact, he had also been ordered to be reinstated. Because of his unfortunate death a few days earlier, this part of the order cannot be implemented. But this development should not detain us any further as in the given situation the only meaning is that the applicant has to be treated as having been reinstated in service on the date of his death. The learned counsel for the respondents i.e. applicants in the RA very strenuously argued that the whole process of recalling and reviewing the order, bringing the legal representatives on record, in case they so desire, and hearing the matter afresh was necessitated in the circumstances of this case. We do not find this reasoning acceptable as to our mind this would be a totally avoidable litigation. Since the penalty order had been quashed, it is obvious that the applicant in OA or his legal

representatives are entitled to the benefits which emerge out of such an order. It is only that the part of the order permitting the department to proceed further in the matter now has become redundant. We do not consider that it is a necessary requirement that this order be reviewed thereby creating a situation for prolonging litigation. We would like to reiterate that after quashing of the order the obvious result was that the family became entitled to receive the settlement dues and family pension. The widow of Shri Heera Lal has already applied for these benefits and now it is for the department to take a decision and ensure early settlement.

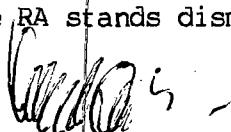
6. Incidentally we have come across a decision of the Hon'ble High Court of Rajasthan in S.B.Civil Writ Petition No.5313/92. In that case the settlement dues of the petitioner had been delayed. Interest had been claimed on delayed payment. In that case on the date of hearing it came to the notice of the Court that the petitioner had expired. Taking note of this fact, the respondents had been given direction to release the amount of interest to the petitioner's widow or to his legal representatives, for which the parties were required to make proper application to the respondents. The operative part of the said order is reproduced below :

"It is settled law that pension is a property and if any delay is made without giving any reasonable explanation the respondent is also liable to pay interest. In the present case, the respondents shall pay interest on all the three amounts from due date till its actual payment at the rate of 12% per annum. The interest shall be released within three months from the date of receipt of the certified copy of this order.

It is stated at the bar that the petitioner has unfortunately expired. If it be so, the respondents shall release the amount of interest to his widow if any or to his legal representatives for which the petitioner shall move a proper application to the respondents. The petition is disposed of."

We find similarity of circumstances in this matter and the matter before us.

7. We, therefore, do not find any reason for recalling and reviewing the order dated 21.9.2001, passed in OA 508/1999. Taking note of the decision already rendered, the applicants in the RA (i.e. respondents in the OA) are directed to proceed further in the matter now as the request for payment of settlement dues from the widow of late Shri Heera Lal is already with them. The RA stands dismissed.


(M.L.CHAUHAN)
MEMBER (J)


(A.P.NAGRATH)
MEMBER (A)