

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 436 of 2004

Indore this the 18th day of Oct 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Smt. Krishna Yadav, W/o. Late Shri Jagdish Singh Yadav, Age 42 years, House-wife, R/o. M-262, Madhav Nagar, Gwalior (MP).
2. Varun Singh Yadav, S/o. Late Shri Jagdish Singh Jagdish Singh Yadav, Age 22 years, Occupation : Nil, R/o. M-262, Madhav Nagar, Gwalior. Applicants

(By Advocate – Shri D.P. Singh & Shri Anil Gupta)

Versus

1. The Union of India, through the The Secretary, Department of Personnel, Public Grievances & Pension, IIIrd Floor, Loknayak Bhawan, New Delhi-110003.
2. The Comptroller & Auditor General of India, Safdarjang Road, new Delhi.
3. The Accountant General (A&E)-I, A.G. Office, Jhansi Road, Gwalior, (MP).
4. The Accountant General (A&E)-II, A.G. Office, Jhansi Road, Gwalior (MP). Respondents

(By Advocate – Shri M. Rao)



ORDER

By Madan Mohan, Judicial Member -

By filing this Original Application the applicants have claimed the following main reliefs :

“8.1 the order of the compulsory retirement dated 14.6.1999 Annexure A-2 of the deceased Shri Jagdish Singh Yadav is liable to be quashed and the respondents be further directed to grant all the benefit treating the applicant as Accountant and also grant all the benefits with interest,

8.2 the order of the denial for the compassionate appointment to the applicant No. 2 on the same ground dated 8.7.2003 Annexure A-1 be ordered to be quashed,

8.3 the respondents be directed to reconsider the case of the applicant No. 2 for the compassionate appointment and grant the same in the interest of justice.”

2. The brief facts of the case are that late Shri Jagdish Singh husband of the applicant No. 1 and father of the applicant No. 2 was in employment of the respondents. He was holding the post of Accountant/LDC. He was missing since 4.7.2004. An FIR was lodged by the applicants on 6.7.1998 and intimation was also given to the respondents on 13.7.1998 and 3.8.1998. The applicant No. 1 submitted an application on 10.8.1999 to extend the benefit of the family of the deceased the pensionary benefits (Annexure A-8). No order has been passed and it is pending with the respondents. In the meantime the applicants came to know that Late Jagdish Singh was reverted on 23.4.1999 as LDC and is now being retired compulsorily vide order dated 14.6.1999. The applicants filed OA No. 676/2002 for compassionate appointment and OA No. 682/200 for grant of post retrial dues and pensionary benefits. The OA No. 682/2002 has been ordered to be rendered infructuous on 18.7.2003 on the basis of the reply filed by the respondents in that case. The another OA No. 676/2002 for compassionate appointment was disposed of vide order dated 2.4.2003 directing the respondents to consider the case of the compassionate appointment of the



applicant No. 2. In response to this order the respondents have passed the order on 8.7.2003 denying the compassionate appointment on the ground that the deceased employee was compulsory retired and there is no provision to grant the compassionate appointment for the members of the family. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicants that late Shri Jagdish Singh was serving in the respondents department. He was missing since 4.7.1998. The applicant lodged an FIR on 6.7.1998 and also informed the respondents immediately. He is still not traceable. The applicants submitted representation for providing the pensionary benefits of the deceased and also to provide compassionate appointment in favour of the applicant No. 2. But the respondents did not hear it. The applicant filed OA No. 676/2002 for compassionate appointment which was disposed of by the Tribunal vide order dated 2.4.2003 directing the respondents to consider the case of the compassionate appointment of the applicant No. 2. The second OA No. 682/2002 for grant of post retirement dues and pensionary benefits has been ordered to be rendered infructuous on 18.7.2003 by the Tribunal in view of the reply filed by the respondents in that case. The order of compulsory retirement passed by the respondents on 14.6.1999 (Annexure A-2) is passed contrary to law as the deceased Government servant was already missing much earlier i.e. from 4.7.1998. Hence, the order of compulsory retirement is passed without hearing the deceased employee by the respondents. The fact of missing of the deceased employee on 4.7.1998 was immediately intimated to the concerned Police Station as well as the respondents. Hence, the respondents had perfect knowledge of the fact of missing of the Government servant. The applicants are legally entitled for the reliefs claimed by them.



5 In reply the learned counsel for the respondents argued that the deceased employee late Jagdish Singh was compulsory retired as a measure of penalty under the CCS (CCA) Rules, 1965 by the disciplinary authority vide order dated 14.6.1999 (Annexure A-2). He also submitted that the scheme of Government for providing compassionate appointment applies in the case of Government servant who dies in harness. In the instant case, the services of deceased Government servant were terminated by way of punishment of compulsory retirement. The claim of applicant No. 2 for compassionate appointment is not covered under the Government of India's scheme. Hence, he was not eligible for compassionate appointment and was duly informed vide communication dated 8.7.2003 (Annexure A-1). The deceased employee while in service when was posted in the Dispatch Section was apprehended by the Police at Indore on account of making unauthorized contacts with some retired employees of the State Government with a view to demanding illegal gratification from them in lieu of settlement of their provident fund claims by showing photocopies of authorization letters issued from the office of respondent No. 4. The photo copies of 16 of such authorization letters were also seized from him by the Police. The departmental enquiry proceedings were initiated against him. He was placed under suspension on 20.12.1995 and a charge sheet under Rule 14 of the CCS (CCA) Rules, 1965 was served on him on 14.3.1996. His suspension was revoked on 23.7.1996. The departmental enquiry was duly completed against him and the copy of the enquiry report was given to him vide letter dated 6.5.1998. From 4.7.1998 he was reported to be missing alongwith a Tata Sumo vehicle and its driver named Shri Sudama Soni. Thereafter the disciplinary authority imposed the punishment of compulsory retirement vide order dated 14.6.1999 (Annexure A-2). The penalty order was sent to his last known address which was returned back undelivered on 2.7.1999 with an endorsement that the addressee has gone out side from long time. Thereafter this penalty order was sent to the same address and it was also





published in the two local and national dailies newspaper – Danik Bhaskar dated 18.6.1999, Nav Bharat dated 18.6.1999, Times of India dated 10.7.1999 and Hindustan Times dated 29.7.1999. Thereafter the claim of the husband of applicant No. 1 was settled and disposed of. The applicant No. 1 had also agitated the earlier through OA No. 682/2002 which was disposed by the Tribunal as being infructuous. He has drawn our attention towards Annexure A-12 which is the order passed by the Tribunal in OA No. 682/2002, wherein the payments of the retrial dues which have been made to the applicant No. 1 is mentioned. Hence, the present Original Application is also liable to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the argument advanced on behalf of the respondents that the retrial dues and the pensionary benefits of the husband of the applicant No. 1 was settled, seems to be correct, as with regard to settlement of the retrial dues the applicant No. 1 earlier agitated the matter by filing OA No. 682/2002 which was disposed of as infructuous and in the order passed in the aforesaid OA No. 682/2002 in paragraph 2 it is clearly mentioned that the gratuity, GPF, CGEIS, leave encashment, arrears of pay fixation and bonus have already been paid to the applicant No. 1 and the applicants have also accepted this aforesaid amounts. Now the applicants have claimed for quashing the alleged compulsory retirement order of the deceased Government employee without mentioning any sufficient and reasonable grounds for quashing the same. This seems to be not tenable. The further argument advanced on behalf of the respondents that since the deceased employee was ordered to be compulsorily retired from service vide order dated 14.6.1999 (Annexure A-2), and the family member of such employee cannot be given compassionate appointment, also seems to be legally correct.



7. In view of the aforesaid, we are of the considered opinion that the applicants have failed to prove their case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

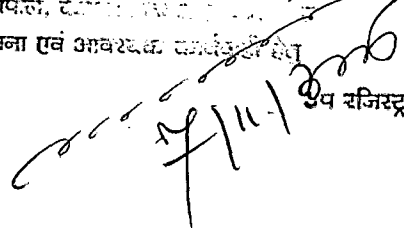
“SA”


पृष्ठांकन सं ओ/व्या.....जबलपुर, दि.....

प लि रि नि डि

- (1) सक्षिप त्तत जजलपुर, जबलपुर
- (2) आवेदन सं.के काउंसल
- (3) प्रत्यक्षीके काउंसल
- (4) कार्यपालक,
सूचना एवं आवश्यक कार्रवाई हेतु


D.P. Singh
on. Bar D.P. Singh


7/11/2020
उप रजिस्ट्रार


7-11-20