

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 851 of 2002

Jabalpur, this the 29<sup>th</sup> day of July, 2004

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

Prabha Devi, W/o. Late Bhagwan  
Prasad Mishra, Ex. T.No. 17430/IE FE 'B',  
GCF-Jabalpur, R/o. Near Gopal Hotel,  
Lalmati, East Ghampur, Jabalpur. ... Applicant

(By Advocate - Shri M.R. Chandra)

V e r s u s

1. The Union of India, through  
the Secretary, Ministry of Defence,  
Government of India, New Delhi.
2. The Director of Ordnance Factory  
Board, 6, Explanade Road,  
Calcutta-6.
3. The General Manager,  
Gun Carriage Factory,  
Jabalpur, M.P. ...

Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has  
claimed the following main reliefs :

"(I) direct the management to treat the period of suspension period from 10.1.1973 to 24.11.1973 as duty since only the punishment of censure was imposed and direct payment of pay and allowance with interest thereof till the date of payment,

(II) to direct the respondents to treat the deceased employee as 'Voluntary Retired' on completion of 3 months statutory period of notice on the basis of deemed suspension for want of reply by management either on his 1st representation or on 2nd time representation. Also to direct payment of retiral benefits which accrue to her husband on such voluntary retirement,

(III) or alternatively to allow compensation allowance of pension and gratuity as per provision under Rule 41 of CCS, Pension Rule 1972. The applicant is willing and ready to fulfil all the conditions if so required."

2. The brief facts of the case are that the applicant is



the legally married widow wife of late Sri Bhagwati Prasad Mishra, who breathed his last on 23.11.1991. The deceased was an ex. employee of Gun Carriage Factory, Jabalpur. Being legal heir of the deceased, the applicant is fully eligible and entitled for receiving <sup>the</sup> service benefits, pensionary benefit, compensation pension etc. of the deceased Government servant. But the respondents have not yet paid the same to the applicant and is lying outstanding. The applicant is known by two names i.e. Prava Debi and Munni Bai. The applicant submitted in the OA that with effect from 12.1.1973, the deceased Government servant was illegally suspended from duty and thereafter was issued a major penalty charge sheet. The deceased was imposed a penalty of Censure. For the entire period of disciplinary proceedings, i.e. from 12.1.1973 to 24.11.1973, the deceased employee was continued in suspension and no subsistence allowance was paid to the deceased employee. Due to mental and financial torture caused deliberately to the deceased Government servant by not making payment of even subsistence allowance for a period of more than 11 months, he lost balance of mind and became semi-mad person. Taking advantage of such confused and abnormal state of mind of the deceased, he was issued with a major penalty charge sheet for unauthorised absence. On 28.4.1975, the deceased employee appeared before the enquiry officer and submitted his application for voluntary retirement. Since, the management was prejudiced and biased, the right to retiral benefits which flows from such statutory and constitutional provision was wilfully ignored and overlooked and he was removed from service retrospectively from 24.11.1973 by order dated 10.3.1976. Aggrieved by this, the deceased preferred a civil suit for declaration and mandatory injunction, which was later on transferred to CAT, Jabalpur Bench and was registered as TA 29/1987. During the pendency of the TA the employee Shri Bhagwati Prasad Mishra died on 29.11.1991. For want of



knowledge of the deceased's legal heirs, their names in the case could not be substituted and the TA was abated. Since the case of the deceased Government servant has not been adjudicated on merit and consigned to records due to abatement and since the Management has decided the right of the deceased employee's entitlement on irrelevant consideration, the Tribunal could adjudicate the OA on the principles of natural justice.

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

4. It is argued on behalf of the applicant that the applicant is known by two names i.e. Prava Debi and Munni Bai. The version of the respondents in this regard that the deceased employee left behind him his widow Smt. Munni Bai is wrong. The deceased employee's application for voluntary retirement was not considered by the respondents while he made sincere efforts by sending representations from time to time. The respondents passed the order of removal from service on the deceased Government servant which illegal and not sustainable in the eyes of law. Against this order of removal the applicant's husband preferred a civil suit which later on was transferred to the Jabalpur Bench of the Tribunal and was registered as TA No. 29/1987. During the pendency of the TA the applicant's husband died and as the applicant and her 3 sons were living in village, she could not substitute the names of the legal heirs of the deceased employee and the TA was abated for non-substitution of legal heirs. Hence, the case of the applicant's husband was not decided on merits by this Tribunal.

5. The learned counsel for the respondents argued that the present application is not maintainable as the applicant is not the wife of late Bhagwati Prasad Mishra as per records.

At this juncture, the applicant after a period of 30 long years cannot claim these reliefs without any documentary proof. Hence, this claim of the applicant is hopelessly time barred and is not maintainable. When the deceased Government servant was removed from service, he is not entitled for any pensionary benefits and service benefits. During the course of his service he had nominated one Smt. Munni Bai as his wife to receive the terminal benefits after his death. The respondent No. 3 consequent to the removal of Shri Bhagwati Prasad Mishra had already paid him Rs. 7,237/- as his terminal benefits duly accruable to him on 7.2.1977. The applicant has not submitted any documentary proof like legal heir certificate or any succession certificate in support of her claim but only made a plea that after the marriage with her husband, she was being called as Munni Bai out of love and affection.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings, we find that the deceased employee Shri Bhagwati Prasad Mishra was removed from service with effect from 24.11.1973 vide order dated 10.3.1976. We also find that during the course of his service the deceased employee had nominated one Smt. Munni Bai as his wife to receive the terminal benefits after his death. This fact is not controverted by the applicant by filing any rejoinder. Mere version of the applicant that she is known by two names is not sustainable in the eyes of law, on absence of any documentary proof like legal heir certificate or succession certificate. We also find that after the death of the deceased Government <sup>Employee</sup> ~~the~~ Transfer Application filed by him was abated due to non-substitution of legal heirs. Now after expiry of about more than 30 long years, the applicant cannot claim these reliefs, without any documentary proof. Moreover, when the deceased Government servant was removed from service, he is not entitled for any pensionary benefits.

The respondents in their reply has stated that consequent to removal of Shri Bhagwati Prasad Mishra, he had already been paid an amount of Rs. 7,237/- as his terminal benefits on 7.2.1977. We also find that the applicant has not challenged the order of removal of the deceased Government servant in this O.A. Thus, the said removal order has become final.

7. Accordingly, we are of the considered opinion that the applicant has failed to prove her case and the Original Application is liable to be dismissed as having no merits. Hence, the Original Application is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

"SA"

पृथ्वीकरण सं. ओ/न्या..... जवलपुर, दि.....  
प्रतिलिपि अवृत्तिः—

(1) सचिव, उच्च न्यायालय द्वारा एसोसिएशन, जर्लसपुर  
 (2) अधिकारी श्री/अधिकारी/कु. .... के द्वारा उन्नीसवें  
 (3) उच्चारी श्री/अधिकारी/कु. .... के क्वारंसल  
 (4) व्यापारित, देशपाता, जर्लसपुर नामांकित  
 सचिव एवं आवश्यक कार्यालयी हेतु   

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