

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 28.01.2014

OA No. 318/2013

Mr. Gaurav Sharma, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

Heard learned counsel for the parties.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 318/2013

DATE OF ORDER: 28th January, 2014

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Smt. Paan Bai widow of (Late) Ramjit Lal, aged about 54 years,
R/o Ward No. 5, Mirzapur Road, Near Ambedkar Dharamshala,
Village Mirzapur, Tehsil Gangapur City, District Sawaimadhopur,
Rajasthan.

...Applicant

Mr. Gaurav Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, West Central Railway, General Manager's Office Building, Jabalpur (Madhya Pradesh).
2. Chief Factory Manager, Kota Junction, West Central Railway, Kota, Rajasthan.
3. Divisional Railway Manager, West Central Railway, Kota, Rajasthan.

...Respondents

Mr. Anupam Agarwal, counsel for respondents.

ORDER

Earlier, the applicant had filed an O.A. No. 511/2012 along with M.A. No. 243/2012, which was disposed of by this Bench of the Tribunal vide order dated 11.12.2012. Vide order dated 11.12.2012, the respondents were directed to consider the case of the applicant Smt. Paan Bai for grant of compassionate allowance, afresh in the light of the rules and instructions prevailing at the time of the disciplinary proceedings and on the date on which the husband of the applicant no. 1/1 late Shri

Anil Kumar

Ramjit Lal was removed from service i.e. vide order dated 27.10.1993.

2. The respondents, in compliance of the aforesaid order, have issued a letter dated 28.01.2013 (Annexure A/1) to the applicant Smt. Paan Bai W/o late Shri Ramjit Lal. The respondents have rejected the claim of the applicant Smt. Paan Bai for grant of compassionate allowance on the ground that the deceased Shri Ramjit Lal had not completed minimum 10 years of qualifying service for grant of pension on the date of removal from service. Vide letter dated 11.02.2013 (Annexure A/2), the respondents have informed the applicant Smt. Paan Bai that as per the provisions of para 1037 of Manual of Railway Pension Rules 1950, she is not entitled for family compassionate allowance / pension.

3. Being aggrieved by the aforesaid letter dated 28.01.2013 (Annexure A/1) and letter dated 11.02.2013 (Annexure A/2), the applicant has filed this Original Application.

4. The brief facts of the O.A., as stated by the learned counsel for the applicant, are that Ramjit Lal, the husband of the applicant Smt. Paan Bai, was working with the respondent-department. His services were terminated vide respondents' order dated 27.10.1993. He had worked for 07 years, 08 months and 10 days for the respondent-department. After the death of Ramjit Lal on 28.02.2000, the applicant Smt. Paan Bai has

Anil Kumar

become entitled to pension / compassionate allowance till her death or re-marriage as per the Railway Services (Pension) Rules, 1993.

5. Learned counsel for the applicant argued that this Tribunal vide order dated 11.12.2012 in OA No. 511/2012 had directed the respondents to consider the case of the applicant afresh in the light of the rules and instructions which were prevailing at the time of disciplinary proceedings and on the date of the removal of Shri Ramjit Lal ignoring the instructions as contained in Railway Board circular, RBE No. 79/2005 dated 09.05.2005. However, a bare perusal of Annexure A/1 letter dated 28.01.2013 vide which the request of the applicant has been rejected would show that the respondents have again relied upon the circular of the Railway Board dated 09.05.2005, which is against the directions of this Tribunal. He emphasized that there are no rules whereby the compassionate grant / compassionate allowance can be sanctioned only on the completion of 10 years of qualifying service. Therefore, the respondents have not considered the request of the applicant for compassionate allowance in correct perspective. Thus, the letter dated 28.01.2013 (Annexure A/1) and letter dated 11.02.2013 (Annexure A/2) be quashed and set aside.

6. On the contrary, learned counsel for the respondents submitted that the applicant Smt. Paan Bai cannot claim compassionate allowance or pension, which is granted to the

Anil Kumar

employee concerned only. In this case, the services of Shri Ramjit Lal were terminated vide order dated 27.10.1993. Shri Ramjit Lal never made request for grant of compassionate allowance during his life time. Thereafter, after the death of Shri Ramjit Lal in the year 2000, his widow cannot claim the compassionate allowance. Widow can claim only family pension. The compassionate allowance / pension is personal to the employee concerned and cannot be granted to the widow, as such, the present Original Application is devoid of substance and deserves to be dismissed.

7. Learned counsel for the respondents further argued that the compassionate allowance is one of the classes of pension and, therefore, a minimum qualifying service of 10 years is a pre-requisite condition for sanction of any class of pension. He pointed out that the provision of compassionate allowance has been provided in Rule 65 of Railway Services (Pension) Rules, 1993. Rule 65 forms part of chapter 5, which deals with classes of pensions and conditions governing their grant. Thus, it clearly shows that compassionate allowance is a kind of pension, which can be sanctioned, if the case deserves special considerations. It is the discretion of the Disciplinary Authority to sanction the compassionate allowance. It is not a right of an employee who has been removed from service to get compassionate allowance.

8. Learned counsel for the respondents also argued that even if the provisions of RBE Circular No. 79/2005 dated 09.05.2005,

Anil Kumar

are ignored even then the applicant Smt. Paan Bai is not entitled for compassionate allowance. Rule 69 of Railway Services (Pension) Rules, 1993 provides a minimum qualifying service of 10 years to be eligible for pension. Thus, it is not correct to say that the provision of 10 years of qualifying service for pension was introduced by the Railway Board Circular, RBE No. 79/2005 dated 09.05.2005. The circular dated 09.05.2005 is only a clarification of the existing provisions regarding the grant of compassionate allowance and since Ramjit Lal has not completed 10 years of service at the time of his removal from service on 27.10.1993, he is not entitled for compassionate allowance, and since Ramjit Lal was not entitled for compassionate allowance during his life time, therefore, his widow is also not entitled to the compassionate allowance. The claim of Smt. Paan Bai, the applicant, for grant of compassionate allowance was again considered by the competent authority as per the directions of the Hon'ble Tribunal; however, the same was rejected as it was not according to the provisions of rules.

9. Learned counsel for the applicant has also filed a rejoinder to the reply filed on behalf of the respondents.

10. Heard learned counsel for the parties and perused the documents available on record.

11. It is not disputed that the husband of the applicant Shri Ramjit Lal was removed from service on 27.10.1993. While

Amit Kumar

deciding O.A. No. 511/2012 vide order dated 11.12.2012, directions were given to the respondents to examine the case of Smt. Paan Bai afresh according to the rules and instructions which were prevalent at the time of disciplinary proceedings and on the date on which the husband of the applicant was removed from service, ignoring the Railway Board circular, RBE No. 79/2005 dated 09.05.2005. However, the perusal of the order dated 28.01.2013 (Annexure A/1) shows that the orders have been passed on the instructions of the Railway Board letter dated 09.05.2005 and letter dated 04.11.2008. Thus the order dated 28.01.2013 (Annexure A/1) has been issued ignoring the directions given by this Tribunal in OA No. 511/2012.

12. However, according to the respondents, Shri Ramjit Lal was removed from service on 27.10.1993. Even if the order dated 28.01.2013 is ignored, the applicant Smt. Paan Bai would not be entitled for compassionate allowance. The respondents have categorically stated in the reply that Shri Ramjit Lal was removed from service on 27.10.1993 and he died on 28.02.2000. He never asked for compassionate allowance during his life time. As such, his wife cannot claim the same at this stage. I entirely agree with the averments made by the learned counsel for the respondents. Shri Ramjit Lal survived for almost 07 years after his removal from service on 27.10.1993. There is no record to prove that he ever agitated for grant of compassionate allowance after his removal from service. In any case, the grant of compassionate allowance is at the discretion

Anil Kumar

of the Disciplinary Authority. Smt. Paan Bai, the applicant has no legal right for the grant of compassionate allowance. She cannot have better rights than her husband for grant of compassionate allowance. If the respondents have not sanctioned the compassionate allowance then the decision of the respondents cannot be quashed unless it is based on mala fide or it is based on extraneous factors. I do not find any mala fide nor there is any allegation of mala fide against the Disciplinary Authority.

13. Therefore, in view of the discussions made hereinabove, I do not find any merit in the present Original Application and the same is liable to be dismissed.

14. Consequently, the present Original Application being devoid of merit is dismissed with no order as to costs.


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

kumawat