

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2299/2014

New Delhi this the 19th day of December, 2016

Hon'ble Mr. Shekhar Agarwal, Member (A)

Smt. Usha
W/o Late Sh. Saroop Chand,
Ex.Work as Safai Karamchari,
R/o H.No.593, Near Yadav Dairy,
Old Vijay Nagar,
Ghaziabad (UP)

... Applicant

(Through : Mr. Lalta Prasad, Advocate)

VERSUS

Union of India, through

1. General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
State Entry Road,
Paharganj, New Delhi.

.... Respondents

(Through: Mr. Satpal Singh, Advocate)

O R D E R (ORAL)

The applicant who is widow of one Shri Saroop Chand has filed this OA seeking the following reliefs:-

- “(a) Quash & set aside the order No.APP/CG/16764/S.Cell/P dated 15.3.2012 in view of the Hon'ble High Court's order dated 25.4.2011.
- (b) Direct the respondents to give the appointment to applicant on compassionate grounds.
- (c) Pass any such order/orders which deems fit and proper in the interest of justice.

The applicant's husband was working as a Safai Karamchari with the respondents. She along with her husband had earlier approached this Tribunal by filing OA No. 1736/2002. This was disposed of on

21.05.2003 by an order, the operative part of which reads as follows:-

"However, considering the facts, including the fact that applicant No.1 was working with the respondents is Safai Karamchari, who himself claims that he is mentally incapacitated and also noting the submission of the learned counsel for the respondents that she has no objection in considering the aforesaid representation of the applicant dated 5.9.2001, the OA is disposed of with the following directions:-

(i) The representation of applicant no. 2 dated 5.8.2011 requesting the respondents to retire applicant no.1 on the ground of medical unfitness is shall be considered by respondent no. 2 in terms of PS 11105, after obtaining the necessary medical certificate from the competent authority. This shall be done within three months from the date of receipt of a copy of this order, with intimation to the applicant;

(ii) In case applicant No.1 is certified as medically unfit to continue as Safai Karamchari, respondents shall take further action on the request of applicant No. 2 for compassionate appointment in accordance with the rules and instructions."

A Review filed against this order was dismissed on 15.07.2004.

Thereafter, the respondents challenged this order before Hon'ble Delhi Court of Delhi vide Writ Petition (C) No. 1193/2005. Hon'ble High Court dismissed the aforesaid petition and also imposed a cost of Rs.20000/- on the respondent. Thereafter, in compliance of the order of this Tribunal dated 21.05.2003, the respondents have passed the impugned order dated 15.03.2012. This order has been assailed in the present OA.

2. The applicant has contended that the Hon'ble High Court of Delhi had set aside the removal order of the applicant but even then no retiral dues/family pension was paid to the applicant and now the application for compassionate appointment of the applicant has also been rejected. The respondents have erred by treating the deceased employee as removed from service and have thereby committed contempt of Court. It has been further stated that the applicant was

suffering from financial crisis and was living in penury with no earning member in the family. Further it has been stated that the applicant was an illiterate poor lady and did not have much knowledge of rules and regulations.

3. In their reply, the respondents have stated that in compliance of the Tribunal's order dated 21.05.2003, the husband of the applicant was directed to have a special medical check up done even though by that time he had been removed from service. He was medically examined and it was found that he was fit to perform normal duties in C-1 category. It was also found that he was not suffering from schizophrenia as contended by his wife. Since, Shri Saroop Chand was found to be medically fit, as per directions of this Tribunal, no further action was required from the respondents with regard to offering compassionate appointment to the applicant herein. Thus, the order of this Tribunal as upheld by Hon'ble High Court was duly complied with by the respondents.

4. I have heard both sides and have perused the material on record. Learned counsel for the respondents argued that the applicant had been removed from service w.e.f. 1.01.2002. The order of removal was never challenged by the applicant or her late husband in any Court. Since the deceased husband of the applicant was removed from service and expired thereafter on 11.11.2008, as per rules there was no requirement of offering compassionate appointment to the widow of the deceased, the applicant herein.

5. I have considered the submissions of both sides. In my opinion no grounds, leave aside any cogent grounds, have been made out by the applicant to challenge the orders of the respondents. The order of

removal from service of the applicant's husband was not challenged in any forum and has, therefore, now attained finality. The applicant's contention that his order had been set aside by Hon'ble High Court is not found to be correct on perusal of the High Court order. Under rules there is no requirement to offer compassionate appointment to the dependant members of the family of the Government employee removed from service. As such, there is no merit in this OA. Accordingly, the same is dismissed. No costs.

(Shekhar Agarwal)
Member (A)

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