

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1040/2014

New Delhi this the 22nd day of November, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

1. Rakesh Devi,
W/o late Const. Suresh Kumar,
R/o VPO Jasuar Kheri,
Teh. Bahadur Garh, Distt. Jhajjar, HR
2. Pooja,
D/o Late Const. Suresh Kumar,
R/o VPO Jasuar Kheri,
Teh. Bahdur Garh, Distt. Jhajjar, HR
3. Neeraj Kumar,
S/o Late Const. Suresh Kumar,
R/o VPO Jasuar Kheri,
Teh. Bahdur Garh, Distt. Jhajjar, HR
4. Rashmi,
D/o Late Const. Suresh Kumar,
R/o VPO Jasuar Kheri,
Teh. Bahdur Garh, Distt. Jhajjar, HR
5. Ankit Kumar,
S/o Late Const. Suresh Kumar,
R/o VPO Jasuar Kheri,
Teh. Bahdur Garh, Distt. Jhajjar, HR
6. Randhir Singh, S/o Late Const. Suresh Kumar,
R/o VPO Jasuar Kheri,
Teh. Bahdur Garh, Distt. Jhajjar, HR - Applicants

(By Advocate: Shri Pankaj Kumar)

VERSUS

Delhi Police through

1. The Dy. Commissioner of Police,
3rd Bn. Vikas Puri Police Complex,
New Delhi-18
2. The Commissioner of Police,
ITO, New Delhi - Respondents

(By Advocate: Ms. Harvinder Oberoi)

ORDER (Oral)

Ms. Nita Chowdhury:

The applicants have filed this Original Application (OA), seeking the following reliefs:-

“(1) That the Hon’ble tribunal may graciously be pleased to set aside termination/dismissal order dated 17-11-2008 and appeal order 08-12-2009 passed against Late Suresh Kumar and further direct the respondent to give the pension as per rules to applicant/applicants and all other retirement benefits to the applicant/applicants in the interest of justice.

And

(2) Any other relief which this Hon’ble Tribunal deem fit and proper may also be granted to the applicant.”

2. This OA has been filed by the applicant no.1, who is the wife of late Sh. Suresh Kumar, who was an employee of Delhi Police and was dismissed from service on account of unauthorized absence. It is the request of the applicant no.1 that her husband had served more than 20 years in Delhi Police and at least, she should be considered for “Compassionate Allowance”. She has also enclosed a representation undated at Annexure A/6 to the OA. It is a fact that no specific relief, excepting to set aside the termination/dismissal order has been prayed for in this regard in this OA.

3. The respondents in their counter affidavit and arguments have been able to show the detailed reasons for finding the husband as an authorized absentee from service and have therefore treated the period of 297 days of unauthorized leave as ‘Not spent on Duty’ and therefore also terminated his service. We do not find any reason to interfere with these orders.

4. However, in view of the peculiar facts and circumstances of the case where due to suffering from chronic TB and subsequent death of the said Suresh Kumar, and the fact that now only the legal heirs are left to plead for mercy, we direct the respondents to consider the representation of the applicant no.1 (Annexure A/6) to the extent that some relief under the Head "Compassionate Allowance" to the wife of the deceased employee, Smt. Rakesh Devi, could be granted as provided for under the Rule 41 of CCS (Pension) Rules, within a period of 90 days of receipt of a certified copy of this order.

5. With the above orders, the OA is disposed of.

6. It is made clear that the above order has been passed in view of the peculiar facts and circumstances of this case and this shall not be treated as a precedent in any other matter. No costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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