

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-4188/2013

Reserved on : 23.08.2018.

Pronounced on :30.08.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Raja Ram,
S/o Sh. Sheo Lal,
Ex.Loco Pilot (Goods),
At Hissar
Under Divisional Railway Manager,
Northern Railway Bikaner,
R/o Village JUDDI, District Rewari,
Haryana.

.... Applicant

(through Mrs. Meenu Mainee, Advocate)
Versus

Union of India : Through

1. The General Manager,
Northern Railway,
Headquarters' Office,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Bikaner.
(Presently under North Western Railway)

(through Ms. Ekta Rani for Sh. Kripa Shankar Prasad, Advocate)

ORDER

The applicant in the O.A. has challenged the order dated 15.11.2011 of the respondents by which his representation for grant of compassionate allowance has been rejected.

2. The applicant in the O.A. states that he joined the Railways as Cleaner on 22.10.1965. After rendering about 35 years of service, his

health deteriorated in 2001 and he developed mental disorder. Due to this problem, he remained under medical treatment from 07.01.2001 to 05.01.2007. Due to his many absences from duty, he was removed from service by the respondents on 15.12.2003. In the normal course, his superannuation date was 30.11.2004.

3. The applicant states that after recovering from mental disorder, he realized that he had been removed from service and requested the respondents to revise the penalty of removal from service to a minor penalty so that he can avail of the benefit of compassionate allowance as provided under the respondents.

4. The respondents in the counter affidavit submit that the applicant was given due opportunities to appear before the Enquiry Officer and on 07.03.2003 a letter was served upon him to resume his duties. Though the said letter was received by the applicant but he did not resume his duty nor did he present any defence, hence he was removed from service on 15.12.2003.

5. It is contended that applicant's record of service is hardly laudatory. He has been punished many times for violation of Indian Railway Conduct Rules, 1966. Taking into account all these factors, his application for grant of compassionate allowance (22.04.2009) was rejected by the Disciplinary Authority on 10.06.2009.

6. During the course of hearing, learned counsel for the applicant Mrs. Meenu Mainee reiterated the facts already stated in the O.A. Relying upon the judgments of Hon'ble Supreme Court in the case of **Mahinder Dutt Sharma Vs. UOI** (Civil Appeal No.2111/2009) dated 11.04.2014 and Hon'ble High Court of Delhi in the case of **Ex.ASI Shadi Ram Vs. GNCT of Delhi** [WP(C)-5544/2007] decided on 22.02.2008, she vociferously argued that the applicant was suffering from mental disorder and was not in a proper frame of mind for many years. She submitted that even the punishments accorded to him were in the nature of minor penalties and should not be allowed to come in the way of grant of compassionate allowance to him.

7. Learned counsel for the respondents Ms. Ekta Rani stated that as per Rule-65 of Railway Service (Pension) Rules, 1993, railway servant, who is dismissed or removed from service, shall forfeit his pension and gratuity. She argued that compassionate allowance can be granted in case there are some extra ordinary circumstances to show that the applicant has been harshly dealt with. She emphasized that past record of the applicant, even before his purported (mental) illness bears testimony to the fact that he was an unwilling worker who had been penalized many a times by the respondents, for his unbecoming conduct.

8. I have gone through the facts of the case and find that the applicant has not made out a convincing case in his favour. Though it has been averred in the O.A. that the applicant suffered from mental disorder etc. but no supporting medical documents have been produced by the applicant in the O.A. Even prior to 2001, before he (reportedly) fell ill, the record of the applicant was hardly exemplary. It is a matter of record that right from 1979 onwards the applicant has been found wanting in discharge of his duties and has continuously been punished and awarded punishments, as can be seen by the information available at Annexure-6 (Colly.).

9. The two citations relied upon by the applicant are not relevant in the present context. The compassionate allowance under Rule 65 of the Railway Services Pension Rules, 1993 is only for railway employees deserving 'special consideration'. The attitude of the applicant, as seen from the available service record contains admonitions/penalties for his various acts of misdemeanour. No specific reasons with supporting evidence for his absence and for lack of co-operation forthcoming to defend himself in the enquiry proceedings.

10. Hence, in my view, this is not a case deserving special consideration. The hardships of the applicant, unfortunately appears to be self inflicted and no extraordinary circumstances exist to show that he has been dealt with harshly by the respondents. In

view of the facts of the case, in my view, the O.A. lacks merit and is accordingly dismissed. No costs.

(Praveen Mahajan)
Member (A)

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