

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA/100/4506/2014

Reserved on: 30.08.2018
Pronounced on:

Hon'ble Mr. K.N. Shrivastava Member (A)
Hon'ble Mr. Ashish Kalia, Member (J)

Smt. Angoori Devi
W/o Late Shri Jai Bhagwan, Head Constable
No.860/Comm
R/o H.No.239, V.P.O. Badhsa,
P.S. Bahadurgarh,
District Rohtak, Haryana ... Applicant

(Through Shri Sachin Chauhan, Advocate)

Versus

1. Govt. of NCTD through
The Commissioner of Police
Police Headquarters, I.P. Estate,
New Delhi.
2. The Joint Commissioner of Police, Operations
Through Police Headquarters, I.P. Estate,
M.S.O. Building,
New Delhi.
3. The Deputy Commissioner of Police, Communication
Through Police Headquarters,
I.P. Estate, M.S.O. Building,
New Delhi ... Respondents

(Through Ms. Harvinder Oberoi, Advocate)

ORDER

Mr. Ashish Kalia, Member (J)

In this OA filed under Section 19 of the Administrative Tribunals Act 1985, the applicant has prayed for the following reliefs:

- "8.(i) To set aside the impugned orders at A1 & A2 and to further direct the respondent to grant the pay and allowances and retiral benefits to the applicant on the basis of the qualifying service rendered by the husband of the applicant till the date of death of the husband of the applicant and to further grant the family pension to the applicant with all arrears and consequential benefits.
- (ii) Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the applicant."

2. Brief facts of the case are that the husband of the applicant was working with the respondents as Head Constable with effect from 29.10.1987. On 20.02.1997, a criminal case was lodged against the husband of the applicant under Section 323/324/34 IPC (later on converted U/S 307/325/323/324 IPC) PS Sadar, Bahadurgarh, Haryana. On 8/9.10.2002, Additional Sessions Judge Jhajjar, Haryana convicted the husband of the applicant. Appeal was filed by her husband before Hon'ble High Court of Punjab & Haryana. On account of compromise, the sentence was reduced for the offence under Section 307/34 IPC to till rising of the Court and fine was enhanced to Rs.10,000/-. The husband of the applicant filed SLP and finally the judgment was passed by the Hon'ble Supreme Court on 22.07.2011 setting

aside the order of the Hon'ble Punjab and Haryana High Court.

Para 3 of the judgment reads as under:

"3. We, accordingly, set aside the order of the High Court dated 19th October, 2006 and remit the case to the High Court for a fresh decision."

3. During the currency of proceedings before the Court of Sessions Judge, the husband of the applicant met with an accident and was diagnosed with cancer and ultimately died on 17.03.2014. The present applicant has approached this Tribunal assailing the order of removal from service of her husband.

4. Notices were issued and respondents have filed detailed reply, opposing therein the facts of the case and prayed for dismissal of the OA.

5. Heard the learned counsel for the parties and perused the pleadings available on record.

6. We are of the view that misdeeds/vices of the applicant's husband absolved with his death. The applicant's husband has rendered service with the respondents till he was convicted in the aforementioned criminal case and his widow has prayed for benefits of service rendered by her husband with the respondent-department.

7. During the course of arguments, the position emerged that Rule 41 of the CCS (Pension) Rules can be made applicable in such circumstances where under Compassionate Allowance not exceeding two-third of pension can be given.

8. Rule 41 of the CCS (Pension) Rules reads as under:-

"41. Compassionate Allowance

- (1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity:

Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a Compassionate Allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension.

- (2) A Compassionate Allowance sanctioned under the proviso to sub-rule (1) shall not be less than the amount of (Rupees three thousand five hundred) per mensem."

9. In the peculiar facts and circumstances of the case, we hereby direct that the applicant shall make an application under Rule 41 of the aforesaid Rules to the department and the department will consider it sympathetically and allow the applicant Compassionate Allowance in terms of provisions of the aforesaid Rules.

(Ashish Kalia)
Member (J)

(K.N. Shrivastava)
Member (A)

/dkm/