

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

R.A. No. 17/2018 in
O.A. No. 2064/2013
M.A. No. 390/2018

New Delhi, this the 9th day of May, 2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

Union of India : Through

1. The Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan, Raisina Road,
New Delhi.
2. The General Manager (E),
Western Railway, Churchgate,
Mumbai.Review Applicants

(By Advocate : Shri V.S.R. Krishna with Shri Shailendra Tiwary)

Versus

Smt. Sudershan Kohli
Wd/o Late M. M. Kohli
R/o. A-I, Shakti Apartment,
Sector-9, Rohini, Delhi. Contesting Respondent/
Original Applicant

Shri B. K. Ummat,
Retd. Sr. Deputy General Manager
N.F. Railway,
Through :
The Secretary, Railway Board,
Ministry of Railways,
Rail Bhavan, Raisina Raod, New Delhi. Proforma Respondent

(By Advocate : Shri H.K. Bajpai for Mrs. Meenu Mainee for
respondent/original applicant)

ORDER (ORAL)**By Mr. V. Ajay Kumar, Member (J)**

Late Shri M.M. Kohli was working as a Senior Scale Officer at Dahod in the Railway Department. In connection with certain omissions and commissions on the part of Late Shri M.M. Kohli, a departmental enquiry was initiated against him by the respondents in exercise of power conferred under Rule 9 of the Railway Servant (Pension) Rules, 1993, vide order dated 13.08.2003. As the applicant was already retired by that time, after the enquiry a penalty of 'withholding of 20% of monthly pension for a period of 5 years' was imposed on him vide order dated 24.05.2011.

2. Questioning the said penalty order, Late Shri M.M. Kohli filed the O.A. No. 2064/2013. During the pendency of the O.A. as he died, his wife Smt. Sudershan Kohli was substituted as his legal representative. After hearing both the sides, this Tribunal vide its order dated 09.11.2016 partly allowed the O.A. as under:

"20. In the light of the aforesaid reasons, and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of passing the fresh order by DA, the OA is partly allowed. The impugned order dated 24.05.2011 conveyed to the applicant by way of memo/letter dated 08.06.2011 (Annexure A-1) is set aside.

21. As a consequence thereof, the case is remitted back to the DA to decide the matter afresh, after supplying the copy of the advice of the UPSC to the applicant to enable him to file his objection/representation against it, and then to pass an

appropriate order in accordance with law, within a period of 3 months from the date of receipt of a certified copy of this order. However, the parties are left to bear their own costs.

Needless to mention, here is that, since this OA has been disposed of only on the limited point of non-supply of the copy of the advice of the UPSC, so in case the applicant still remains aggrieved with the fresh order to be passed by the Disciplinary Authority, in that eventuality, he would at liberty to challenge its validity on all the grounds contained in this OA, and in accordance with law.”

3. The respondent – Railways filed the instant Review Application by submitting that once the impugned penalty order against the deceased employee was set aside by the Tribunal remitting the same back to the Disciplinary Authority is against law as the employee has already died, all the proceedings against him become abated and, hence, they cannot proceed as per the directions of this Tribunal and, accordingly, prayed to review the order of this Tribunal in the O.A. to the limited extent of remitting back to D.A. to decide afresh.

4. Heard Shri V.S.R. Krishna, learned counsel for the review applicants and Shri H.K. Bajpai representing Mrs. Meenu Maine, learned counsel for the respondent/original applicant and perused the pleadings on record.

5. We agree with the submissions made by the learned counsel for the review applicants and, accordingly, the order dated

09.11.2016 in O.A. No.2064/2013 is reviewed to the limited extent of remitting back to Disciplinary Authority to decide afresh. Except this, the rest of the order in the O.A. remains intact. In view of this, the Railways shall release all the benefits, whatever payable to the applicant, as per law and under the orders of this Tribunal, forthwith, if not already released.

6. Pending MAs, if any, stand disposed of. No order as to costs.

(NITA CHOWDHURY)
Member (A)

(V. AJAY KUMAR)
Member (J)

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