

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**OA/021/1337/2012
Date of Order: 14.09.2018**

Between:

Smt. B. Amala,
W/o. Late Sri B. Venkateswarlu,
(Ex) T.M/B, I.C. No.747, Mechanical Section (P),
Heavy Water Plant, Manuguru, Khammam District.
R/o. Mittagudem Village,
Aswapuram Mandal,
Khammam District, A.P.

.... Applicant

AND

1. Union of India rep. by its
Chief Executive,
Dept. of Atomic Energy,
Heavy Water Board,
Anushakti Bhavan, V Floor,
C.S.M. Marg,
Mumbai – 400 001.
2. The Chief General Manager,
Heavy Water Plant,
Ashwapuram Gautam Nagar,
Manuguru,
Khammam, A.P.
3. Chief Personnel Officer,
Heavy Water Plant,
Ashwapuram, Gautami Nagar,
Manuguru, Khammam, A.P.
4. The Dy. Controller of Accounts,
Heavy Water Plant,
Ashwapuram, Gautami Nagar,
Manuguru,
Khammam, A.P.

.... Respondents

Counsel for the Applicant : Mr. Siva for
Mr. R. Mahanti

Counsel for the Respondents : Mr. V. Vinod Kumar,
Sr. CGSC.

CORAM :

THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR. B.V. SUDHAKAR, MEMBER (A)

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant is the wife of one Mr. B. Venkateswarlu. He was appointed as Helper-B in the Heavy Water Plant, Manuguru in the category of land losers in the year 1988. He was issued a charge memorandum dated 05.04.2007 alleging that he remained absent continuously from 20.12.2006 onwards. Stating that there is no response from him even after service of the charge memo, an Inquiry Officer was appointed. However, Mr. Venkateswarlu appeared before the Inquiry Officer on 10.09.2007. He was permitted to submit explanation on 19.09.2007. On that day he appeared and submitted a written representation stating that he had to remain absent on account of acute ill health suffered by him. Thereafter, the Inquiry Officer submitted a report on 26.09.2007 holding that the charge against the employee is proved. The report of the Inquiry Officer was forwarded to Mr. Venkateswarlu but there was no response from him. Ultimately, the appointing authority passed an order dated 11.12.2007 imposing the penalty of 'Removal from Service'. The

employee submitted an appeal before the appellate authority. During the pendency of the appeal, he died on 11.11.2011. The appeal was rejected on 15.12.2011. The applicant herein filed this O.A. claiming various reliefs.

2. The applicant contends that the inquiry was conducted in a totally improper manner and contrary to the relevant principles of law and in particular the principles of natural justice. She contends that the finding of the inquiry officer was without any evidence and cannot be sustained in law. Another contention is that when the record itself discloses that her husband was seriously ill and the disciplinary proceedings ought not to have been initiated. Other grounds are also urged.

3. The Respondents filed a detailed counter. They stated that the deceased employee was a habitual absentee and punishments were imposed on him on earlier three occasions. It is stated that in the departmental inquiry, adequate opportunity was given to the employee but it was not availed by him.

4. As regards the finding of the Inquiry Officer, it is stated that the allegation levelled against the employee was not refuted and left with no alternative, the Inquiry Officer recorded the finding. Regarding the punishment, it is stated that though the initial proposal was to dismiss him from service, a lesser punishment of removal from service was imposed. It is also stated that the relief claimed in the O.A. is totally untenable in law.

5. Heard the arguments advanced by Mr. Siva, learned counsel representing Mr. R. Mahanti, learned counsel for the applicant and Mr. V.

Vinod Kumar, learned Senior Standing Counsel appearing for the Respondents at length.

6. The only charge contained in the charge memo is that the employee remained absent from 20.12.2006 onwards. There is no denial of the fact that the employee remained absent. However, in the reply submitted by him on 19.09.2007, he categorically stated that due to acute ill health he had to remain absent and he was referred to a corporate hospital by the Respondents themselves.

7. The Inquiry Officer, no doubt, was faced with a typical situation where the charged employee was not forthcoming with any formal explanation or any supporting material. However, if one takes into account, the background of the employee, or the situation in which he was finding himself, a better response from him cannot be expected. All the same, the Inquiry Officer was required to base his findings upon any evidence which was required to be adduced by the department. It was not even mentioned that any leave was applied for or not.

8. The period of absence was, no doubt, long but in view of the plea of the employee that he was seriously ill and was referred to a corporate hospital by the Respondents themselves, it becomes an important factor to be taken into account in the context of deciding the punishment. The employee had at his credit, service of two decades, by the time the proceedings were initiated and he breathed his last. The minor punishments that were imposed earlier i.e.

two Censures and one Reduction of Pay by two stages, were also occasioned on account of absence that too on account of ill-health. Barring the unauthorised absence, the employee was not accused of misconduct, that has brought disrepute or inconvenience to the organization. We are of the view that service of about two decades cannot be permitted to be dissolved and wiped away without any resultant benefit, particularly at a time when the Hon'ble Supreme Court treated the pension as a right to property. In this context, not only the employee, but also the plight of the dependents needs to be taken into account.

9. In the totality of circumstances, we are of the view that the punishment needs to be modified to the one of 'Compulsory Retirement' enabling the applicant herein to draw family pension and nothing more. The family pension shall be worked out from the date of death of the applicant, within three months from today. Arrears accrued, shall also be paid but without interest.

10. The O.A. is allowed in part accordingly. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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