

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA/021/982/2017

Date of Order : 09.07.2018

S. Veera Swamy, S/o.Ramaiah,
Aged about 69 years,
Ex-Carpenter: AGE B/R No.(2) NW,
Colaba, Bombay,
R/o. 5-4-127, Kammari Basti,
Sunargalli,JJ Nagar Post,
Yapral, Secunderabad - 500087.

..... Applicant

AND

1. Union of India rep. by
The Chief Engineer,
Southern Command,
Pune – 411 011 / (Mumbai).
2. Garrison Engineer (P),
Golconda,
Hyderabad.

..... Respondents

Counsel for the Applicant : Mr. R. Yogender Singh

Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDL. MEMBER

ORAL ORDER

{ Per Hon'ble Mr.Justice R.Kantha Rao, Judl. Member }

Heard Shri R. Yogender Singh, learned counsel appearing for the Applicant and Smt. K. Rajitha, learned Senior Central Govt. Standing Counsel appearing for the Respondents.

2. The Applicant worked as a Carpenter in the 2nd Respondent's department. Subsequently on the ground of unauthorized absence for several years, he was removed from service on 31.12.1982. According to the Applicant, his wife who was suffering from lunacy, was in the habit of leaving the house and ultimately she died on 29.01.1982 by committing suicide. At that time, the Applicant was not at the house. It is submitted by the Applicant in his application that he was suffering from a sort of infection and he was unable to move. He was also unable to perform the marriage of his two daughters who are aged about 45 & 40 years. He was depending on them for his livelihood. The son of the Applicant died on 25.12.2005. According to him, in these circumstances he was away from the duties which resulted in his removal from service.

3. He submitted representations dated 8.8.2010, 13.10.2010, 9.12.2010 & 29.1.2011 for sanction of compassionate allowance and also for payment of eligible gratuity. It is submitted that the Respondent No.2 by his letter dated 7.10.2010 informed the Applicant that his services were terminated w.e.f. 31.12.1983 and, therefore, he is not eligible for Compassionate Allowance.

4. Earlier the Applicant filed O.A. No.1523/2013 and the same was

allowed by setting aside the rejection order passed by the Respondents and directing the Respondents to consider the representations made by the Applicant dated 8.8.2010, 13.10.2010, 9.12.2010 & 29.1.2011. After passing of the order in the O.A., the Respondents passed final order dated 17.06.2016 which is impugned in the present O.A. rejecting the claim of the Applicant mainly on the ground of delay, specifically mentioning therein that the representation seeking Compassionate Allowance was made 20 years after the Applicant was removed from service.

5. It is argued by the learned counsel appearing for the Applicant that the Applicant has assigned sufficient reasons for the delay in making representation seeking Compassionate Allowance and the Respondents, without taking into consideration the condition in which the Applicant is place, ought not to have rejected his representation by the impugned order dated 17.6.2016.

6. On the other hand, learned Senior Standing Counsel would submit that because of inordinate delay in making the claim, the Applicant is not entitled for the relief prayed for in the O.A.

7. Though the reply statement is not filed by the Respondents, there are certain admitted facts in the instant case which are borne out from the averments in the O.A. as well as the impugned rejection order dated 17.6.2016. The Applicant absented from duty since 1978. Though he assigned some reasons for the absence, the Respondents held inquiry and ultimately removed him from service on 31.12.1982. Though the Applicant contends that he was only made aware of the said removal order by the 1st

Respondent's letter dated 7.10.2010 rejecting his representation for Compassionate Allowance for the first time, the said fact has not been proved by producing any sort of evidence. The normal presumption is that the Respondents would have communicated the removal order to the Applicant soon after his removal. In any event, according to the Applicant, he lost his wife in 1992 and that his son committed suicide in the year 2005 i.e. long after the Applicant was removed from service. In the earlier order, the Tribunal did not go into the merits and directed the Respondents to consider the case of the Applicant afresh in the light of the grievances put forth by the Applicant.

8. Before dealing with the issue, it is necessary to extract Rule 41 of CCS (Pension) Rules which is as follows:

“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 hundred and seventy five per mensem.”

9. According to the above extracted provision, if the case of a candidate deserves special consideration, the competent authority, may grant him Compassionate Allowance. Therefore, from the language of the said provision, it is not obligatory on the part of the competent authority to grant Compassionate Allowance in each and every case where an employee was removed or dismissed from service. Moreover, the claim for Compassionate Allowance has to be made within a reasonable time from the date of removal

or dismissal of an employee. In the instant case, the Applicant was removed from service on 31.12.1982 and he made a representation seeking Compassionate Allowance for the first time on 8.8.2010 i.e. after a lapse of 28 years.

10. In view of the inordinate delay in making the application for Compassionate Allowance, I am of the considered view that the Respondents are justified in rejecting the claim of the Applicant on the ground of delay and laches. I do not see any merit in the O.A. Hence, it is dismissed. No order as to costs.

(JUSTICE R. KANTHA RAO)
JUDL. MEMBER

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