

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

**C.P. No. 45/2019 In
O.A No. 2762/2015**

New Delhi, this the 24th day of May, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Smt. Maya Devi
Through (LRs)
Smt. Kanchan Tanwar
W/o. Late Shri Ashok Tanwar
R/o. A-7H, Kiran Garden,
Uttam Nagar, New Delhi-110 059. ...Applicant

(By Advocate : Mr. Anurag Singh Tomar for Mr. D. S. Chaudhary)

Versus

1. Sh. Vijay Dev
Chief Secretary,
Govt. of NCT of Delhi
5th Level, 'A' Wing,
Delhi Secretariat, New Delhi-110 002.

2. Sh. Vivek Kumar Bhaskar,
Senior Deputy Accountant General (Admn.)
AGCR Building, I. P. Estate,
New Delhi – 110 002. ...Respondents

(By Advocate : Ms. Esha Mazumdar, Mr. Nayan Dubey for Mr. Gaurang Kanth for respondent no. 2)

O R D E R (O R A L)

Justice L. Narasimha Reddy, Chairman :

It appears that O.A 2762/2015 was decided without proper assistance. That in turn led to so many uncertainties. C.P. 45/2019 is filed for implementation of the order in the O.A. The relevant facts are as under :-

2. One Sh. D. R. Tanwar was an employee of the GNCTD in the Directorate of Employment. Disciplinary proceedings were initiated against him, somewhere in 1975; and ultimately through an order dated 13.01.1978 he was terminated from service. Thereafter, he died on 24.09.1988. During his life time, Mr. D. R. Tanwar made representations to the Chief Secretary claiming certain benefits and expressing grievance against the order of termination. After his death, his widow Smt. Maya Devi made a representation in June, 2000, narrating the entire history of the case and requested that the punishment of removal be converted into one of compulsory retirement. It was also mentioned that since the service of Mr. Tanwar was less than 20 years, by the time he was removed from service, the benefit of relaxation to the extent of the deficit be extended to him so that pension can be sanctioned.

3. Even while the said representation was pending, Smt. Maya Devi died. Her son pre-deceased her. Therefore, the applicants herein filed the OA No. 2762/2016 before this Tribunal claiming various reliefs in the form of a direction to the respondents to release all the legitimate dues i.e., arrears of salary, GPF amount, gratuity, leave encashment, insurance amount,

commutation of pension, arrears of family pension etc. The O.A was disposed of on 22.02.2018 directing the respondents to work out all the admissible dues payable to the deceased government servant when he remained in service and after his death, the pensionary benefits, within four months from the date of the order.

4. The contempt case is filed alleging that the respondents did not take any steps in compliance of the direction issued by this Tribunal.

5. Respondents filed counter affidavit and an additional affidavit narrating various facts pertaining to the case. It is stated that the direction issued in the O.A was on the premise that the employee died while in service whereas, the fact of the matter is that he was dismissed from service and died thereafter.

6. We heard Mr. Anurag Singh Tomar for Mr. D. S. Chaudhary, learned counsel for petitioner and Ms. Esha Majumdar, learned counsel for respondents.

7. The respondents did not choose to file any counter in the O.A. Obviously for that reason, whatever was

narrated in the O.A was taken as true and it was presumed that the employee died while in service. Para 4 of the order reads as under :-

“4. According to the pleadings, a memorandum dated 19.10.1974 was issued to late D. R. Tanwar while he was posted as Food & Supplies Officer, asking him to show cause within ten days why disciplinary proceedings be not initiated against him for gross negligence and dereliction of duties. Later, vide another memorandum dated 19.11.1975 some adverse remarks/warning were recorded in his service record. Said D. R. Tanwar, however, died on 24.09.1988 while in service. After his death, Maya Devi, the widow, made a representation dated 23.03.2000 followed by reminders dated 17.04.2000 and 20.06.2000 claiming legitimate dues like arrears of salary, GPF amount, gratuity, leave encashment, insurance amount and family pension with effect from the date of death of the late Government servant. Having received no response, present O.A has been filed claiming the aforesaid relief.”

8. It was not noted that Mr. Tanwar was removed from service on 30.01.1978 and about a decade thereafter he died. That Mr. Tanwar was removed from service is evident from the representation made by his wife Maya Devi as late as in the year 2000. The last two paragraphs of the representation read as under :-

“It is also brought into your notice that because of mala fide intention of inquiry authority, disciplinary authority and lastly appellate authority collectively victimised the deceased officer – Grade I (Executive) by arbitrarily awarding the penalty of removal from service unlawfully and unconstitutionally. Had he been not penalised by this way he could have imparted better education to his son and daughters and further could have given better status to his family which the department refused arbitrarily. The deptt. has violated the constitution right therefore a compensation of Rs.2 lakh to 30 lakhs is admissible under the mandatory strictures passed by the Hon’ble Supreme Court of India in a number of case because of substance of mental agony.

In view of the irregularities and inconsistencies appeared to be visible on the fact of the orders and inquiry it is advisable and discernable to have a careful perusal of the prayer of the widow and grant the family pension by

converting the order of removal into compulsory retirement of the deceased officer Shri D. R. Tanwar officer Grade I to provide family pension to the widow petitioner.”

9. This, however, was not brought to the notice of the Tribunal when the O.A was decided.

10. Directions issued in the O.A are on the basis that Mr. Tanwar was in service till his death and that he was entitled to be paid pension and after his death, his wife was entitled to be paid family pension.

11. Since the record is otherwise, the orders passed in the O.A cannot be treated as correct. We are only putting the record straight and not finding fault with the order. In a contempt case, the Court can examine the enforceability of the concerned order.

12. The record discloses that a sum of Rs.26,886/- was due towards GPF. There is no assertion by the respondents that the said money has been paid to Mr. Tanwar or to his legal representatives. The amount became payable way back in the year 1978. Though, interest thereon would be huge, we direct that a sum of Rs.50,000/- be paid towards GPF to the applicants herein after verifying their status as legal representatives of the deceased employee. This

exercise shall be completed within two weeks from the date of receipt of a certified copy of this order. The direction is issued independent of the order in the O.A and it shall not be construed as the consequence of contempt on the part of the respondents.

The C.P. is thus closed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Mbt/