

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 25th day of April Two Thousand And Nineteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

OA. 109 of 2017

S. Visalakshmi,
W/o. Late S. Subramanian,
EXOS Gr.II/Head Quarters,
Southern Railway,
No. 9-17, Hopman, II Street,
St. Thomas Mount,
Chennai- 600 016. ...Applicant

(By Advocate: M/s. Ratio Legis)

Versus

1. Union of India Rep. by
The General Manager,
Southern Railway,
Park Town, Chennai-3;
2. The Financial Advisor &
Chief Accounts Officer,
Southern Railway,
Park Town, Chennai-3. ...Respondents

(By Advocate: Dr. D. Simon)

O R A L O R D E R

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

The applicant has filed this OA seeking the following relief:-

"to call for the records relating to Pension Payment Order dated 30.12.2015 and to direct the respondents to sanction compassionate allowance on actual basis with effect from 21.05.2001 and continue to pay till 18.07.2013 with admissible interest for the delayed payments and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. It is submitted that the applicant's husband was removed from service for unauthorized absence by Annexure-A/1 dated 21.05.2001. As per the standing instructions of the first respondent, the competent authority was expected to simultaneously decide whether any compassionate allowance could be granted him though the amount of such compensation was to be determined at the discretion of the competent authority. Since no order was passed in this regard, the applicant's husband filed O.A. 1297/2012, during the pendency of which, he died on 18.07.2013. Following his death, the applicant was substituted as his legal representative in the said OA.

3. The above OA was disposed of by an order of this Tribunal dated 29.4.2014 directing the competent authority to decide the question of grant of compassionate allowance within a period of three months from the date of receipt of a claim from the legal heir of the deceased employee to be substituted by her within 30 days of the receipt of a copy of the order.

4. Learned counsel for the applicant would submit that the competent authority issued Annexure-A/3 communication addressed to the Manager, Indian Bank, CPPC, Chennai and sent a copy to the applicant stating that applicant's husband was granted notional compassionate allowance of 50% of pension normally admissible and the applicant was eligible for family pension from the date of death of her husband i.e. with effect from 19.07.2013. Accordingly, the family pension of the applicant had been worked out. The grievance of the applicant is that the grant of notional compassionate allowance of 50% of pension would be tantamount to granting no compassionate allowance as there was absolutely no financial gain on account of such notional sanction of pension. If the intention was to reject the claim for compassionate allowance, a reasoned and speaking order should have been passed instead of merely sending a sketchy communication addressed to the bank and to the applicant. As such, the order of this Tribunal in O.A. 1297/2012 dated 29.4.2014 had not been complied with leading to this second round of litigation.

5. Respondents have filed a reply stating that as per Rule 65 of Railway Service (Pension) Rules, 1993, the competent authority would sanction not exceeding 2/3rd of compassionate allowances whereas in this case the disciplinary authority had sanctioned 50% of Pension notionally to the deceased employee and actual family pension to the widow of the ex-employee with effect from 19.07.2013. It is the discretionary power vested with the competent authority to grant compassionate allowance in lieu of

pension in the case of removal/dismissal of an employee and it is not possible for any other authority or court to exercise such discretion.

6. Learned counsel for the respondents draws attention to RBE 164/08 dated 4.11.2008 in which it is stated that the competent authority may review the cases of dismissed/removed employees in respect of grant of compassionate allowance. On such review, "if the competent authority sanctions compassionate allowance to a dismiss/removed railway servant, the same should be effective from the date of removal/dismissal. In case the competent authority decides to sanction family pension to the spouse or eligible family member of the deceased railway servant, compassionate allowance shall be sanctioned notionally from the date of dismissal/removal to make the family eligible for family pension and in such cases, the family pension shall be payable for the period commencing from the date following the date of death of the removed/dismissed railway servant". The respondents had acted strictly in compliance of the said RBE and granted notional compassionate allowance to the applicant's husband only with a view to make the applicant eligible for family pension, it is contended.

7. I have considered the submissions. It appears that the decision of the competent authority was not to grant any compassionate allowance to the applicant's husband at the relevant time, though it is alleged that no such order was passed. The decision to grant family pension to the applicant is in terms of the RBE cited above for which notional compassionate allowance needs to be granted. However, if it is true that no conscious decision had

been taken at the time of removal of the applicant's husband from service not to grant him compassionate allowance, a reasoned and speaking order regarding its grant or otherwise would be called for.

8. In view of the above, I deem it appropriate to direct the competent authority to examine whether any order was passed regarding compassionate allowance for the applicant's husband at the time of his removal from service and if not, consider the matter and pass an appropriate order.

9. OA is disposed of in the above terms. No costs.

(R. RAMANUJAM)
MEMBER (A)

25.04.2019

Asvs.