

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS: BILASPUR

Original Application No.203/00292/2019

Bilaspur, this Wednesday, the 20th day of November, 2019

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE SHRI B.V. SUDHAKAR, ADMINISTRATIVE MEMBER

Smt. Rishi Manikpuri
W/o Late Sundar Das Manikpuri,
Aged about 35 years,
R/o Village-hafa, Post Sakri,
Tehsil Takhatpur Distt-Bilaspur (C.G.)
Mobile No.8223950061

-Applicant

(By Advocate-**Shri A.V. Shridhar**)

V e r s u s

1. Union of India,
Through General Manager
South East Central Railway
New GM Building
Bilaspur Chhattisgarh 495004

2. Principal Chief Personnel Officer,
South East Central Railway
Bilaspur Chhattisgarh 495004

3. Sr. Divisional Engineer/N
South East Central Railway
Bilaspur (CG) 495004

- Respondents

(By Advocate-**Shri R.N. Pusty**)

O R D E R (Oral)

By Ramesh Singh Thakur, JM:-

The applicant has filed this Original Application against the order dated 24.01.2019 whereby the appeal filed by the applicant in representative capacity of her deceased husband has been rejected vide order dated 24.01.2019 (Annexure A/1) relying on Rule 21 of the Railway Servant (Discipline and Appeal) Rules, 1968.

2. The applicant has prayed for the following reliefs:-

“8.1 That the learned Tribunal may kindly be pleased to call the entire records pertaining to the case of the applicants.

8.2 That the Hon’ble Tribunal may kindly be pleased to quash the impugned order dated 24.01.2019 (Annexure A-1).

8.3 That the Hon’ble Tribunal may kindly be pleased to direct the respondents to consider the appeal dated 12.11.2018 within stipulated time frame.

8.4 Cost of the petition be awarded to the applicants.

8.5 Any other relief which the learned Tribunal deems fit and proper may be awarded.”

3. Precisely the case of the applicant is that the applicant is the widow of Late Sundar Das Manikpuri who was working under SSES/P.Way/APR. The husband of the

applicant was served with a major penalty charge memorandum dated 24.09.2015 for unauthorized absence from 11.05.2015 to 27.08.2015 and onwards without intimation. The inquiry was conducted against the husband of the applicant. Since the husband of the applicant did not attend the proceedings, the proceedings were conducted ex parte and inquiry report was submitted to the disciplinary authority on 19.12.2015. The disciplinary authority vide order dated 10.06.2016 imposed the punishment of removal from service without sanction of compassionate allowance. The copy of which is annexed as Annexure A/2. It has been submitted by the applicant that her husband died on 03.11.2016. The applicant preferred appeal in representative capacity. Since the respondents have not decided the same the applicant approached this Tribunal by filing Original Application No.203/00023/2019. Vide order dated 11.01.2019 this Bench has disposed of the case by directing the respondents to decide the pending appeal of the applicant.

In compliance of the order of this Tribunal, the respondents have rejected the appeal of the applicant vide order dated 29.01.2019 (Annexure A/1).

4. As per reply filed by the respondents it has been submitted by the replying respondents that the applicant has filed appeal in the representative capacity on 12.11.2018 and the same was rejected in view of Rule 21 (1) of RS (D&A) Rules. It has been submitted by the respondents that every person preferring an appeal shall do so separately and in his own name. An appeal forwarded through or counter signed by a legal practitioner or an assisting railway servant or a Railway Trade Union Official shall not be entertained but shall be returned with the direction to submit it under the signature of the appellant only. The husband of applicant whom the punishment was imposed had expired without preferring any appeal against the said punishment order. So as per rule no appeal on representative capacity can be entertained.

5. Heard the learned counsel for both the parties and have also gone through the documents attached with the pleadings.

6. From the pleadings it is clear that the appeal has been filed by the applicant as a representative capacity of her late husband (deceased employee of the respondent-department). The contention of the applicant is that as per Establishment Serial No.369/63 Circular No.SPO (R)/14/151/27253 dated 23.10.1963 the applicant is entitled to file appeal.

7. On the other side the contention of the respondents is that the appeal of the applicant has been decided under Rule 21 (1) of the RS(D&A) Rules, 1968 whereby the appeal so preferred shall be in his own name. So Annexure A/1 passed by the respondent-department is valid in eyes of law.

8. We have gone through the Annexure A/1 minutely and it is clear that appeal is to be filed by the appellant and we are of the confirmed view that this does not bar the LRs

of the deceased employee. It is relevant to mention that appeal is continuity of the disciplinary proceedings. Needless to say that it amounts to civil consequences and in the representative capacity the right of the person pursuing the case of the deceased employee has an effect on the persons who pursuing in representative capacity. In view of this Rule 21(1) of RS (D&A) Rules, 1968, does not bar the applicant to pursue the appeal in representative capacity.

9. Resultantly, Annexure A/1 is quashed and set aside and the respondents are directed to decide the appeal, with a reasoned and speaking order, within a period of 60 days from the date of receipt of a certified copy of this order.

10. With the above direction, this Original Application is allowed. No costs.

(B.V. Sudhakar)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member