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**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No. 48/2013

Date of decision: 07.11.2019

**CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).**

Smt. Usha Karunakaran
Aged 52 years, lastly working
as Khalasi Helper, T. No.08059755
Smith Shop-CWM, Matunga,
Mumbai-400 019 and residing
At Flat No.A-2, Ashoka CHS Ltd.
Room No.704, 7th Floor, Lok
Udyan, Kalyan (W), Dist. Thane.

... **Applicant.**

(By Advocate Shri P. J. Prasadrao)

VERSUS.

1. The Works Manager,
CWM, Central Railway,
Mumbai-400 019.
2. The Assistant Works
Manager, Office of the
CWM, Central Railway,
Matunga, Mumbai-400 019.

... **Respondents.**

(By Advocate Shri R. R. Shetty)

O R D E RPer: R.N.SINGH, MEMBER (J)

1. When the case is called out, Shri P. J. Prasadrao, learned counsel appeared for the applicant.

2. Shri R. R. Shetty, learned counsel appeared for the respondents.

3. This OA has been filed on 12.12.2012 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"a) that this Hon'ble Tribunal be pleased to set aside the order dated 15.12.2009 (Annexure A-1) of the Disciplinary and order dated 01.09.2010, received on 03.05.2011 (Annexure A-2) of the Appellate Authority.

b) that this Hon'ble Tribunal be pleased to direct the Respondents to reinstate the Applicant back in service as before and grant her all service benefits including continuity of service seniority, pay fixation, full back wages and all and every service benefits due to her on reinstatement along with interest at the rate of 18% per annum on the said arrears of wages from the due date till actual payment.

c) that such other and further order or orders be passed as the facts and circumstances of the case, may require;

d) that the costs of this original application be provided for."

4. The applicant who was working as Khalasi

Helper and was appointed on compassionate basis by the respondents after demise of her husband, was issued a charge-memorandum covering certain aspects of violation of the intimation of property under the Conduct Rules and also for drawing family pension on demise of her husband even after her re-marriage on 20.01.1992. The twin grounds raised on behalf of the applicant to challenge the aforesaid impugned orders are that the applicant has not re-married and second, is that the order has not been passed by the Competent Authority inasmuch as in the case of the applicant who has got appointment on compassionate grounds, the Secretary to Government of India is the sole Competent Authority to take disciplinary action.

5. In response to the notice form this Tribunal, the respondents have filed reply and have disputed and denied all the grounds taken by the applicant. Shri R. R. Shetty, the learned counsel for the respondents has invited our attention to the defence brief dated 07.04.2009 wherein it is contended by the applicant as under:

"As regard the charges levelled against me vide Article-I and II, have to state that I was appointed in Railway Service in Gr.D capacity after the death of my husband. My educational qualification

in only 8th Standard and I had studied in Kerala where the media of education is Malayalam. I was and am totally ignorant of the Rules and Regulations of the Railway and all the mistake had been committed by me because of my ignorance. I had done nothing deliberately with the intention of cheating or misleading mistakes were committed after my re-marriage i.e. 20.01.1992 is already started the recovery of Rs.3800/- monthly from my salary from August 2008 onwards. I have no further argument on Article-I and II, Because it is accepted by me.

From the above it is clear that my mistakes, though they serious one of the allegation made against me in Article-I and II are accepted and the Article-III of the charges levelled against me is not proved neither during the enquiry nor the RUD and I request that I may please be favoured with a Finding of NOT GUILTY of Article-III of the charges.

6. In view of the admission at the end of the applicant about her remarriage, we do not find any illegality, infirmity qua the findings of the Competent Authority about the remarriage of the applicant. With regard to the second ground taken by the applicant that in the matter of employment on compassionate ground only the Secretary to the Government of India is the competent Disciplinary Authority irrespective of the post to which such compassionate appointment has been made, no rules, statutory provisions or policy decision has been

brought to our notice.

7. In view of the aforesaid, we find that the OA is devoid of any merits and the same is accordingly dismissed. Pending MAs, if any also stand disposed of accordingly.

8. No order as to costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

v.

JD
05/12/19

