

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

O R D E R

D. B. CIVIL WRIT PETITION NO. 14398/ 2012

SMT. BASANTI DEVI Vs. UNION OF INDIA & ORS.

DATE: 30. 04. 2013

HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN
HON'BLE DR. JUSTICE SMT. MEENA V. GOMBER

Mr. S.K. Jain, for the petitioner.

Heard the learned counsel for petitioner.

2. This writ petition is directed against the order dated 12.10.2011 passed by the Central Administrative Tribunal, Jaipur Bench (hereinafter referred to as 'the Tribunal'), whereby Original Application No.67/2007 filed by petitioner, has been dismissed on the ground of limitation as well as on merits.

3. Petitioner's husband R.L. Meena was appointed as Booking Clerk and thereafter he was promoted on the post of Commercial Superintendent. He remained willfully absent from duty, therefore, a charge-sheet was served upon him. As per para-16 of the order of the Tribunal, husband of petitioner did not file any reply to charge-sheet. The Disciplinary Authority passed an order of removal of service on 03.05.2000. No appeal was preferred within a period of limitation by the deceased-Government servant. The order of

removal from service was challenged after a period of 3 years without any application for condonation of delay. (This fact has been mentioned in para-16 of the order of the Tribunal itself, which has not been controverted by the learned counsel for petitioner also.) The appeal was dismissed by the Appellate Authority vide order dated 13.02.2004. It appears that the deceased-Government servant preferred a review petition in his life time on 05.03.2004. During pendency of the review petition, husband of the petitioner died on 10.06.2004. The Reviewing Authority, looking to the special circumstance and the fact that the Government servant has died, took a lenient view and converted the order of penalty of removal from service into an order of compulsory retirement, vide order dated 28.02.2005. The said order was not challenged by the legal representatives of the deceased including the petitioner till December, 2007. The family pension papers were prepared. Petitioner was having full knowledge about the penalty of compulsory retirement. The present Original Application was filed before the Central Administrative Tribunal on or about 04.12.2007, challenging the order of compulsory retirement. During pendency of the Original Application, an application was also filed for amendment in the Original Application, whereby relief for compassionate appointment was also added. The learned

Tribunal, after examining the case, dismissed the Original Application being barred by limitation as well as on merits also.

4. Submission of the learned counsel for petitioner is that the learned Tribunal committed an illegality in dismissing the Original Application on the ground of delay. He submitted that when merits of the case have been examined, then the same should not have been dismissed on the ground of delay. He referred Section 21 of the Tribunal Act in this regard. He also submitted that termination order of the deceased-Government employee itself was bad in law, therefore, the petitioner is entitled to all the consequential benefits including salary of the deceased-Government employee, pension and revision of family pension. He submitted that the order of termination was passed without holding any enquiry, therefore, it was contrary to rules.

5. We have considered the submissions of the learned counsel for petitioner and examined the impugned order passed by the Tribunal.

6. The termination order of the deceased-Government employee i.e. husband of petitioner, was passed on 03.05.2000 and the same was not challenged for about 3 years. The Appellate Authority dismissed the appeal vide order dated 13.02.2004 and upheld the order of termination of the deceased-employee. Thereafter, review petition was preferred on

05.03.2004 and during pendency of the review petition, the deceased-employee died on 10.06.2004. The Reviewing Authority took a lenient view and converted the penalty order of termination from service into an order of compulsory retirement, vide order dated 28.02.2005. The family pension papers were prepared. Petitioner was having full knowledge about the order of compulsory retirement of the deceased-employee, but the said order of compulsory retirement was not challenged. The present Original Application was filed first time in December, 2007 by petitioner for setting aside the order of termination as well as compulsory retirement of the deceased-employee. The application for amendment in the Original Application, to add the relief, with regard to compassionate appointment, was filed in 2008 and it was allowed in 2009.

7. Admittedly, no application was filed for compassionate appointment soon after the death of deceased-employee or after passing of the order by the Reviewing Authority on 28.02.2005. The learned Tribunal has considered the case of petitioner in detail and by a reasoned and speaking order, dismissed the Original Application on the ground of delay as well as on merits.

8. We have examined the reasons assigned by the learned Tribunal for dismissal of the Original Application, in the light of submissions of the

9. We find no merit in this writ petition and the same is, accordingly, dismissed in limine.

(NARENDRA KUMAR JAI N) , J.

in the judgment/order have been
mailed.

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KAMLESH KUMAR
P.A.