

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No.2090/2015

% **3rd March, 2015**

SMT. OM WATI Petitioner
Through: Mr. A.K.Trivedi and Mr. Ashok K.
Viz, Advocates.

versus

RESERVE BANK OF INDIA & ANR. Respondents
Through: Mr. K.S.Parihar, Advocate for R-
1/RBI

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, petitioner, who is the widow of the late employee being her husband Sh. Tuhi Ram Sharma, seeks compassionate allowance under Regulation 27 of the Reserve Bank of India Pension Regulations, 1990 (hereinafter referred to as 'the Regulations'). This Regulation 27 of the Regulations reads as under:-

“27. Compassionate allowance

(1) An employee of the Bank who is dismissed or terminated from service shall forfeit his pension.

Provided that the authority competent to dismiss or terminate from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-third of pension which would have been otherwise admissible to him.

(2) A compassionate allowance sanctioned under proviso to sub-regulation(1) shall not be less than the amount of [Rs.3,500/-] per mensem in the case of a full-time employee, and proportionate amount thereof in relation to rate of wages applicable in case of a part-time employee.”

2. The facts of the case are that the husband of the petitioner was dismissed from services way back ie over two decades back on 30.4.1993 on account of his unauthorized absence from service. This order became final. The husband of the petitioner in fact thereafter died on 13.5.2004. Petitioner thereafter filed a representation on 27.9.2013, i.e 20 years after the dismissal of her husband from service and around 10 years after the death of her husband, for compassionate allowance in terms of the Regulation 27 of the Regulations quoted above.

3. By virtue of an order dated 2.9.2014, in W.P.(C) No. 233/2014, respondents were directed to pass a speaking order deciding the representation of the petitioner, and therefore, the representation has been decided by the respondents vide its impugned speaking order dated 26.9.2014 rejecting the request for compassionate allowance. The sole reason given in the impugned order dated 26.9.2014 is that compassionate

allowance cannot be allowed under Regulation 27 of the Regulations unless the employee himself had received pension or compassionate allowance from the bank. A reading of Regulation 32 of the Regulations however shows that the same has no application to a compassionate allowance which is granted under Regulation 27 of the Regulations because Regulation 32 of the Regulations deals with grant of family pension. Regulation 32 of the Regulations does not deal with compassionate allowance when the employee is dismissed or terminated from services, and in which latter case only Regulation 27 of the Regulations will apply.

4. Regulation 27 of the Regulations however shows that possibly the compassionate allowance can only be granted to the employee and not his family, inasmuch as family is only entitled to a family pension under Regulation 32 of the Regulations, however, this is not the ground for rejecting the representation of the petitioner. Regulation 27 of the Regulations also provides that respondents are entitled to see whether the case deserves special consideration and on which aspect also the impugned order is silent as to whether or not the case deserves special consideration. Also, issues may arise with respect to any delayed claim or a claim after death of the employee way back in the year 2004, although I may hasten to add that compassionate allowance appears to be a continuous cause of action

of every month provided of course the requirements of Regulation 27 of the Regulations are complied with.

5. In view of the above, while the impugned order dated 26.9.2014 is set aside, however, since the authority has to consider, deal with, grant or refuse compassionate allowance only in terms of Regulation 27 of the Regulations, and which aspects are not dealt with in the impugned order as stated above, the competent authority is now directed to pass a fresh speaking order within a period of two months from today and a copy of which should be sent to the petitioner. In case, petitioner at that stage, assuming she is not granted the relief, is legally entitled to approach the Court, she can do so.

6. Petition is accordingly disposed of in terms of the aforesaid observations.

Dasti to counsel for the parties.

MARCH 03, 2015
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VALMIKI J. MEHTA, J.