

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.582 OF 2016

Smt. Jamnabai Wd/o Hiralal Soni

-vs-

Union of India, through General Manager, Central Railway, Mumbai CSTM-440001 and anr

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.A.B. Bambal, counsel for the petitioner.

Mr.Z.S. Shekhani, Adv. H/f shri R.G. Agrawal, counsel for the respondents.

CORAM : SMT. VASANTI A. NAIK &
V. M. DESHPANDE, JJ.

DATE : APRIL 6, 2016.

By this writ petition, the petitioner challenges the order of the Central Administrative Tribunal, Nagpur dated 8.12.2014, dismissing the original application filed by the petitioner after holding that the petitioner is not entitled to any relief.

The petitioner is the widow of Shri Hiralal Soni, who was working as a Technician with the respondents. The services of Shri Hiralal were terminated by the respondents by the order dated 26.5.2000. The petitioner, by filing the original application in the year 2012, challenged the order of termination of Shri Hiralal dated 26.5.2000. The petitioner sought a direction to the respondents to pay the pensionary benefits to the petitioner after setting aside the order of termination. The original application filed by the petitioner was dismissed by the Central Administrative Tribunal.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there

is no scope for interference with the impugned order in exercise of the writ jurisdiction. The services of Shri Hiralal were terminated on 26.5.2000. Shri Hiralal expired in the year 2003. Shri Hiralal did not challenge the order of his termination during his life time. The petitioner also did not challenge the order of termination of Hiralal within a reasonable time and challenged the same by filing the original application in the year 2012. The only ground raised by the petitioner in the application for condonation of delay is that she did not get the pensionary benefits from the respondents, despite her representation dated 16.4.2012, and hence she was constrained to challenge the order of termination of Shri Hiralal. No reason whatsoever, much less any cogent reason was stated by the petitioner for condonation of the inordinate delay of more than 12 years in filing the original application. The Tribunal rightly held that in the circumstances of the case, the delay could not be condoned. The Tribunal was justified in holding so as no cogent and convincing reason was stated in the application and the petitioner had failed to point out 'sufficient cause' for the inordinate delay. While dismissing the original application filed by the petitioner, the Tribunal found that the order of termination could not have been set aside on the ground that the enquiry was not conducted against Shri Hiralal as in view of the provisions of Article 311(2)(b), an authority is empowered to dismiss or remove a person if it is not reasonably practical to hold the enquiry. The Tribunal found on an appreciation of the material on record that though a reasonable opportunity was granted to Shri Hiralal after he was absent from duty from the year 1999 and further

explain whether he was the same person who was convicted in the year 1960, Shri Hiralal did not defend himself. In the circumstances of the case, the order of the Tribunal cannot be faulted with.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

!! BRW !!