

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8539 OF 2016

Union of India and ors.	...Petitioners
Versus	
Smt. Anusuya D. Pujari	...Respondent

Mr. Suresh Kumar for the Petitioners.
None present for the Respondent.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 15.06.2018.

ORAL JUDGMENT:

1] Heard Mr. Suresh Kumar, learned counsel for the petitioners.

2] The challenge in this petition is to the order dated 17.07.2015 made by the Central Administrative Tribunal (CAT), Mumbai allowing the respondent's O.A. No. 24 of 2014. By the impugned judgement and order, the MAT has directed the petitioner to take appropriate steps to pay compassionate allowance to the respondent from 31.10.2007 along with interest thereon at the rate of 9% per annum. In fact, the operative portion of the impugned judgment and order reads as follows:

*“(a) In the result, the OA is allowed.
 (b). The respondents are directed to issue necessary office order and to release 2/3rd amount of compassionate allowance to the applicant with effect from 31st October, 2007 and shall also pay interest on the amount of arrears at the rate of 9% per annum till realization of the said amount.
 (c) The respondents shall take appropriate steps as above within a period of three months from the date of receipt of copy of this order and shall remit the entire amount due to the applicant towards arrears of compassionate allowance from 31st October, 2007 along with interest thereon.
 (d) In the facts and circumstances of the case, the parties are, however, directed to bear their respective costs of this proceeding.”*

3] Mr. Suresh Kumar submits that the CAT has proceeded on the basis that the petitioners had agreed for the payment of compassionate allowance to the respondent. He submits that there was no firm agreement as such though, the petitioners had only stated that they would consider the case of the respondent for grant of compassionate allowance. Mr. Suresh Kumar submits that for this reason itself the impugned judgment and order is liable to be set aside.

4] Since, the respondent has not appeared, with the help of Mr. Suresh Kumar, we have scanned the records to ascertain whether, there was indeed a decision taken for award of compassionate allowance to the respondent. From

the record, we find that the CAT was justified to record that the petitioners had in fact agreed to pay 2/3rd amount of compassionate allowance to the respondent vide letter dated 31.10.2007.

5] In the aforesaid regard, the reference can usefully be made to the affidavit-in-reply filed by Mr. Arun A. Sonawane, Divisional Personnel Officer in response to O.A. No. 24 of 2014 before the CAT. In paragraph 12 of this affidavit reads as follows:

*"12. With reference to para 4.7 of the OA, the contention is denied. It is matter of records that the applicant was removed from railway service under Letter No.E/308/PL/1 dated 27.08.1999 for remaining unauthorized absent from duty with effect from 10.07.1998 to 28.09.1998 and from 15.10.1998 to 28.11.1998 and same has been proved. The applicant has failed to intimate the office regarding her willingness to resume duty or submit any sick certificate for remaining unauthorized absent from 1.7.1997 for which she was warned vide Letter No. E/308/2/PL dated 13.5.1997 and accordingly enquiry officer was nominated vide letter dated 5.12.1997 and after completion of enquiry by the enquiry officer, she has been found guilty of unauthorised absent for two spell of period i.e. 10.07.1998 to 28.09.1998 and 15.10.1998 to 28.11.1998 and therefore her service was terminated. **It is correct that the applicant has submitted her representation dated 31.10.2007 requesting for payment of 2/3 compassionate allowance which has been process and competent authority has agreed 2/3***

compassionate allowance vide Letter No. E/308/2/1/PL dated 31.10.2007"

.....

(emphasis supplied)."

6] The record indicates that though the respondent was making a claim for compassionate allowance from the year 1999, the petitioners agreed to payment of 2/3rd compassionate allowance only with effect from 31.10.2007. This fact is reiterated in the synopsis to the present writ petition, in which, it is again stated that it is correct that the competent authority has agreed to release the compassionate allowance to the respondent.

7] The CAT has in fact quoted the letter dated 31.10.2007 in verbatim, which indeed, notes that the petitioner had agreed to the payment of 2/3rd compassionate allowance to the respondent.

8] Mr. Suresh Kumar very fairly did not dispute that even if the application of the respondent were to be processed further, the petitioner, would not have been in a position to deny the respondent compassionate allowance. This is

because the case of the respondent did qualify for payment of such compassionate allowance.

9] The CAT, after noting that a decision has already been taken by the petitioners for payment of 2/3rd compassionate allowance but there was delay in implementation of this decision, has awarded interest to the respondent. Again, we see no good ground to interfere with the award of such interest.

10] There is no jurisdictional error or perversity in the impugned judgment and order so as to warrant interference. This petition is therefore, dismissed. There shall, however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)