

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.36207 OF 2015

ORDER

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the respondent in not considering the representation dated 17.12.2012 of the petitioner for grant of compassionate allowance as per para 4 of the Railway Board Circular RBE No.644/2008, which was communicated by the SPO/Rules for Chief Personnel Officer as arbitrary, illegal and consequently to direct the respondent to grant and release compassionate allowance with all arrears of pension and other benefits.

Heard Sri J.M.Naidu, learned counsel appearing for the petitioner and learned Standing Counsel for Railways appearing for the respondent.

It is the case of the petitioner that her husband was appointed as RPF Constable on 18.7.1983 and thereafter, promoted to the post of Naik. While working as such, he fell sick from 25.3.1986 and consequent upon which, her husband remained absent for a considerable period. The respondent has construed the said absence as misconduct and initiated disciplinary proceedings and after following due process of law, terminated him from service *vide* order dated 27.5.1986.

As the family of the petitioner was suffering from financial constraints, the husband of the petitioner submitted a representation on 22.12.2008 seeking grant of compassionate allowance by treating his case as exceptional one. But the respondent has not acted upon it. In the meanwhile, husband of the petitioner expired on 20.09.2012. Hence, the petitioner submitted a representation on 17.12.2012 seeking to grant and release compassionate allowance with arrears. So far, no orders have been passed thereon. Under those set of circumstances, the present writ petition is filed.

Learned Standing Counsel appearing for the respondent submits that as per Rule 65 (1) of Railway Services (Pension Rules), 1993, compassionate allowance is permissible. Learned counsel further submits that the respondent has not received the representation as contended by the petitioner and when the petitioner has not submitted the representation, the question of not considering her case does not arise.

In view of the same, this Court is of the considered view that ends of justice would be met if the respondent is directed to consider the case of the petitioner for grant of compassionate allowance.

Accordingly, the Writ Petition is disposed of directing the petitioner to submit a representation afresh raising all the

contentions with regard to entitlement of compassionate allowance within a period of two weeks from the date of receipt of a copy of this order and upon such representation being received, the respondent shall consider the same and pass appropriate orders within a period of eight weeks thereafter. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

*24<sup>th</sup> April, 2018*  
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JUSTICE ABHINAND KUMAR SHAVILI

