

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.20497 of 2016

Date of Decision: May 14, 2018

Smt.Munni Devi @ Manorma

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SHEKHER DHAWAN.

Present: Mr.Kuldeep Khandelwal, Advocate, for
Mr.Rajesh Khandelwal, Advocate, for the petitioner.
Mr.J.S.Lalli, Advocate, for Union of India.

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Surya Kant, J. (Oral)

The petitioner seeks quashing of the order dated 20.08.2016 passed by Central Administrative Tribunal, Chandigarh Bench, whereby her Original Application seeking grant of second MACP to her deceased-husband with effect from the due date, has been dismissed primarily on the ground of delay and also upon touching the merits of the case.

The facts are broadly admitted. The deceased-husband of the petitioner (Ved Pal Sandhu) joined the department on 06.09.1982 as Sub Post Master and served for more than 30 years. The deceased-employee was denied the benefit of 2nd MACP under the MACP Scheme, 2008, vide the impugned order dated 16.05.2012, on the ground of “unsatisfactory record of service and due to currency of punishment”. He represented against denial of the 2nd MACP but his claim was rejected vide order dated 27.08.2014.

After passing of the aforesaid orders, the husband of the

petitioner unfortunately passed away on 03.09.2014. The petitioner

subsequently challenged those orders by way of Original Application filed in the year 2016 and also applied for condonation of delay of 692 days. The said application has been dismissed by the Tribunal, though passing reference to the merits of the case has also been made.

It may be seen that the deceased-employee was denied the benefit of 2nd MACP on two grounds, namely (i) unsatisfactory service record and (ii) currency of punishment. As regard to punishment, a minor punishment of stoppage of one increment for one year was awarded to him on 25.09.2008 and the said period came to an end in September, 2009. Since the deceased-employee was to be considered for 2nd MACP as on 01.09.2008, the ground of currency of punishment period was applicable till 01.09.2009 only. Thereafter, the said ground could not have hold the field. The second reason assigned was that annual confidential reports of the deceased-employee for the period 2005-06, 2006-07 and 2007-08 were 'Average'. Admittedly, none of these reports were conveyed to the deceased-employee and no opportunity to submit representation was granted. Whether those reports could still be relied upon to deny the benefit of MACP, is a legal issue but the Tribunal has not gone into the same.

It is true that there was delay in approaching the Tribunal but there were circumstances to explain the delay. The petitioner lost her husband in the year 2014 while he was still in service and when the family had suffered such an unbearable loss, it is difficult to expect the petitioner to rush to the Tribunal to challenge the orders dated 16.05.2012 and dated 27.08.2014 vide which the claim of her husband for second time rejected. It appears that when the family pension claim was decided, then only the petitioner realized the financial loss suffered due to denial of 2nd MACP.

The Tribunal thus ought to have taken a pragmatic and liberal view for condoning the delay.

It appears to us that the Tribunal ought to have decided the petitioner's claim on merits. The writ petition is accordingly allowed in part; the impugned order dated 20.08.2016 passed by the Tribunal is set-aside. The application for condonation of delay is accepted and the delay in filing the OA is condoned. The matter is remitted to the Tribunal to decide the same afresh on merits and in accordance with law.

The parties are directed to appear before the Tribunal on 04.07.2018.

[SURYA KANT]
JUDGE

May 14, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No