

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

WRIT PETITION NO. 564/2019

(KANCHAN KISHANLAL YADAV **VERSUS** UNION OF INDIA & ANOTHER)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri C.L. Deharia, counsel for the petitioner.
Shri N.P. Lambat, counsel for the respondents.

CORAM : A. S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.

DATE : MARCH 31, 2022.

Heard. The challenge raised in this writ petition is to the order passed by the Central Administrative Tribunal on 11.08.2017 in Original Application No.2194 of 2015.

It is the case of the petitioner that her husband was appointed as Shed Khalasi at the Nagpur division of the Railway Department on 26.06.1958. During the course of service, he was implicated in a criminal case. In Sessions Trial No.122 of 1976, the learned Additional Sessions Judge, Raipur acquitted him on 31.03.1977. It is further the case of the petitioner that her husband was suffering from various ailments and he could obtain certified copy of the judgment of acquittal only on 13.11.2013. Thereafter notice under Section 80 of the Code of Civil Procedure, 1908 was issued making a demand for service benefits. The petitioner's husband had filed Original Application No.148 of 2014 alongwith an application for condonation of delay. That application however was dismissed as withdrawn on 25.07.2014. The petitioner's husband again renewed his request for grant of terminal benefits and as there was no response he filed Original Application No.2194 of 2015. The Tribunal considered the fact that the order of removal dated 01.03.1977 had not been challenged by the petitioner's husband. The Provident Fund Account of her husband was settled in December-1977. There was no explanation as regards the manner in which the time from 1977 to 2013 was spent in pursuing the remedy. On that count, since the order of removal operated, the original application came to be dismissed.

We have heard the learned counsel for the parties and we have perused the impugned judgment of the Tribunal. We find that the order of removal dated 01.03.1977 has not been challenged by the petitioner's husband. There is further no explanation for the inaction from 1977 to 2013 in seeking service benefits. Though it was stated that the petitioner's husband was suffering from mental illness there is no document on record to support that contention. We therefore do not find any scope for interference in the order passed by the Tribunal.

The learned counsel for the petitioner however submits that the petitioner would be entitled for grant of compassionate allowance as per letter of the Railway Board dated 04.11.2008. It is however seen that before the Tribunal there was no prayer made in the original application for grant of compassionate allowance. As per the policy of the Railway Board the matter has to be considered by the Competent Authority after taking into account the service record of the concerned employee.

In that view of the matter, it is open for the petitioner to seek compassionate allowance in terms of letter of the Railway Board dated 04.11.2008 by making a request in that regard to the Competent Authority. If such request is made by the petitioner, the same shall be considered on its own merits and in accordance with law.

Subject to what has been stated hereinabove, the writ petition stands dismissed with no order as to costs.

(SMT. M.S. JAWALKAR, J.)

(A. S. CHANDURKAR, J.)

APTE