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W.P.No.17790 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.17790 of 2020

K.Soundari

...

Petitioner

/vs/

1. The Director General,
Railway Protection Force,
Railway Board, New Delhi – 110 001.
2. The Deputy Inspector General,
Railway Protection Force,
Railway Board, New Delhi – 110 001.
3. The General Manager,
Railway Protection Force,
Southern Railway,
Park Town, Chennai – 600 003.
4. The Chief Personnel Officer,
Railway Protection Force,
Southern Railway,
Park Town, Chennai – 600 003.
5. The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Park Town, Chennai – 600 003.



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6. The Senior Divisional Security Commissioner,
Railway Protection Force,
Southern Railway,
Park Town, Chennai – 600 003.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents to grant compassionate allowances, gratuity, other eligible dues and benefits for the petitioner's husband as well as family pension as applicable to the petitioner in line with the judgments of Hon'ble Supreme Court of India in Krushnakant B.Parmar Vs. Union of India & Anr. dated 15.02.2012 (2012 (3) SCC 178) and Mahinder Dutt Sharma Vs. Union of India & Others (2014 (11) SCC 684) dated 11.04.2014 as well as the Division Bench of High Court, Calcutta in WPCT No.121 of 2013 dated 14.06.2013 respectively.

For Petitioner ... Mr.G.Thyagarajan

For Respondents ... Mr.M.Vijay Anand
Additional Standing Counsel for R1 to R6

ORDER



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This Writ Petition has been filed to direct the respondents to grant compassionate allowances, gratuity, other eligible dues and benefits for the petitioner's husband as well as family pension as applicable to the petitioner.

2. Mr.G.Thyagarajan, the learned counsel for the petitioner submitted that the petitioner's husband by name Samudi was working as a Head Constable in the Railway Protection Force and he died on 27.07.2017; due to his unauthorized absence, disciplinary action has been initiated against him and that had resulted in the imposition of punishment of removal from service by virtue of an order dated 16.06.2000; the petitioner preferred an appeal and that was also dismissed on 24.06.2013; thereafter the petitioner had given a representation by stating that her husband had completed 20 years of service which is more than 10 years of qualifying service for grant of compassionate allowance; the respondent had sent a communication dated 18.09.2018 to the petitioner to furnish certain documents and the petitioner had sent all the required documents to the respondent; since no order has been passed so far, the petitioner has



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filed this writ petition to consider her representation.

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3. Mr.Vijay Anand, the learned Additional Standing Counsel for the respondents, submitted that even during the lifetime of the petitioner's husband, he has given a representation to grant compassionate allowance and that has been rejected on 14.02.2017; in the year 2018 itself the respondent had rejected the claim of the petitioner and the rejection order has been communicated to the petitioner also. According to the learned counsel for the respondent, the petitioner had suppressed the material facts and filed the present petition.

4. The learned counsel for the petitioner submitted that even if it is true that the orders dated 14.02.2017 & 03.07.2018 were passed, they were not in conformity with the Circulars in RBE No.89/2008 dated 31.07.2008 and RBE No.164/2008 dated 04.11.2008; the said Railway Board Circulars says that at the time of removal of service, the orders in respect of compassionate allowance or gratuity or both should also be passed without fail either at the time of imposing penalty or removing the



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person from service.

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5. However, the learned Additional Standing Counsel for the respondents submitted that the above Railway Board Circulars are of the year 2008, but the order of removal of service for the petitioner has been issued as early as in the year 2000 and hence the circulars are not applicable to the petitioner.

6. Whatever may be the case, that there should be some order as to the entitlement of dismissed employees to get the compassionate allowance or gratuity consequent to his dismissal. In the case on hand, an order has been passed as early as on 14.02.2017 by stating that the petitioner's husband cannot be granted with compassionate allowance. The petitioner's husband died only on 27.02.2017 so he was aware of the fact that the compassionate allowance was not granted to him. But, he did not challenge the said order. In fact the petitioner got married to the deceased Samudi only subsequent to his removal of his service and now at a belated stage this Writ Petition has been filed to give life to an issue which has already



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been set at rest.

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7. Since the respondents did not consider to give compassionate allowance to the deceased Samudi himself and passed a specific order to that effect, the petitioner cannot renew it once again. However, it is up to the respondents to consider the other benefits, if any, payable to the deceased Samudi by duly considering the representation of the petitioner in this regard and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

8. With the above observations, this Writ Petition is disposed. No costs.

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Index: Yes / No
Speaking order / Non-speaking order
bkn

To:



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R.N.MANJULA ,J.

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