

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7023 OF 2024

Sangeeta Sanjay Dhodi w/o
Ex-Khalsai Late Shri. Sanjay Ratan Dhodi ...Petitioner
Versus
Union of India,
Through the General Manager,
Central Railway & Ors. ...Respondents

Mr. Samir Singh, for the Petitioner.

CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.

DATE : 1st OCTOBER, 2024

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1. Heard the learned counsel for the Petitioner.
2. By instituting these proceedings under Article 226 of the Constitution of India, the Petitioner challenges the order dated 19.04.2023 passed by Mumbai Bench of Central Administrative Tribunal (hereinafter referred to as "the Tribunal"), whereby the Original Application No.266 of 2023 filed by the Petitioner has been dismissed on the ground of limitation.
3. The Petitioner's husband was employed as a class-IV employee with the Respondents, however, on account of disciplinary proceedings drawn against him, he was inflicted with the
BGP

punishment of removal from service on 11.02.2004. He filed a statutory Appeal challenging the order of removal from service before the Appellate Authority, which, too, was dismissed on 20.07.2004.

4. After the decision on the Appeal by means of the order dated 20.07.2004, the Petitioner passed away on 27.04.2006.

5. The Original Application decided by the impugned order was filed by the wife of the deceased employee. The Tribunal after considering the respective proceedings, has concluded that the Original Application is barred by limitation and accordingly, has refused to entertain the same.

6. It has been argued by learned counsel for the Petitioner that the Petitioner did not have any knowledge of the Appeal preferred by her husband against the order dated 11.02.2004, whereby he was removed from service and that she came to know about the order of the Appellate Authority dated 20.07.2004 only once an order was passed on 03.01.2023 by the Regional Labour Commissioner, whereby the Application moved by the Petitioner on 07.08.2020 was decided.

7. It is not in dispute that the order of removal and the appellate order rejecting the Appeal were passed on 11.02.2004 and 20.07.2004 respectively. The Petitioner's husband expired on

27.04.2006. However, prior to moving an application on 07.08.2020 to the Regional Labour Commissioner, the Petitioner did not take any steps to challenge either the order of removal or appellate order. There is nothing on record, which suggests that any steps were taken by the Petitioner, even to inquire about the order passed by the Appellate Authority before moving the application dated 07.08.2020 before the Regional Labour Commissioner.

8. The Original Application was filed only on 10.04.2023 and the plea taken by the Petitioner for seeking condonation of delay was that she did not have any knowledge of the appellate order, which came to her notice only on 03.01.2023, when the Regional Labour Commissioner passed his order on the application preferred by the Petitioner.

9. Such an explanation, in our considered opinion, cannot be said to be a sufficient cause for condoning the delay under Section 21(3) of the Administrative Tribunals Act, 1985 (hereinafter referred to as "the 1985 Act"). As per the provisions contained in Section 21 of the 1985 Act, the Tribunal has been injuncted not to admit any Application or Petition beyond one year from the date on which a final order is made or beyond one year from the date of expiry of period of six months from the date of making Appeal or representation which has not been decided. Sub-section (3) of Section 21 permits the Tribunal to admit any Application/Petition only in case the Applicant approaching the Tribunal is able to satisfy

the Tribunal that he had sufficient cause for not making the application within such period as prescribed in Section 21 of the said Act.

10. In our opinion, the reasons given by the Petitioner for approaching the Tribunal after expiry of a period of nineteen years, do not constitute sufficient cause enabling the Tribunal to condone the delay in admitting the Original Application filed by her.

11. At this juncture, learned counsel for the Petitioner has placed reliance on the judgment of Hon'ble Apex Court in the case of ***State of Madhya Pradesh Vs. Sayed Qamarali***, reported in ***1961 SCC OnLine SC 9*** and has stated that in case the order under challenge is passed by an incompetent authority, that will be *non-est* in the eye of law and the same need not be challenged.

12. The aforesaid judgment does not come to the rescue of the petitioner. This plea could be available to her, if at all, only once she had within some reasonable time claimed any terminal benefits on the death of her husband. As has been already noticed, the husband of the Petitioner had expired on 27.04.2006 and for the first time she made an application to the Regional Labour Commissioner only on 07.08.2020 i.e., after an expiry of period of fourteen years from the death of her husband and during this period, no claim was put-forth by her for claiming the terminal benefits.

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13. For the aforesaid reasons, we are not convinced to entertain this Writ Petition, which is hereby dismissed.

14. There will be no order as to costs.

[AMIT BORKAR, J.]

[CHIEF JUSTICE]