

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6684 OF 2008

[Arising out of SLP(C) No.6301/2006]

PARWATI DEVI

.....APPELLANT(S)

Versus

UNION OF INDIA & ORS.

.....RESPONDENT(S)

ORDER

Leave granted. Heard the parties.

2. The appellant is the widow of A. Bahadur, a Railway employee. A departmental enquiry was held against the employee in regard to the charge of unauthorised absence from 6.6.1995 and punishment of removal was imposed on 5.12.1997. The employee died in the year 2000. The appellant, on becoming aware of the order of removal in 2001, filed an appeal which was rejected. Thereafter, she approached the Central Administrative Tribunal which remitted the matter to the disciplinary authority for reconsidering the punishment. The said order was challenged before the High Court and the High Court by the impugned order modified the order of the Tribunal. The High Court held that the disciplinary proceedings was conducted in violation of the rules of natural justice and, therefore, the order imposing penalty was invalid and nonest. However, having regard to the fact that the delinquent employee had expired and the proceedings were being

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pursued by the widow, the High Court was of the view that instead of permitting the authorities to start an enquiry denovo, the matter should be disposed of with liberty to the authorities to impose a penalty other than removal or dismissal. The said order is under challenge in this appeal by special leave.

3. We are informed that in pursuance of the order of the High Court, the respondents have passed an order on 30.6.2005 imposing the punishment of compulsory retirement against appellant's husband.

4. Learned counsel for the appellant submitted that once the enquiry was found to be in violation of principles of natural justice and the High Court held that the order of penalty was nonest, it should be deemed that the employee was in service and consequently appropriate relief ought to have been given. He also pointed out that having set aside the order of punishment as the enquiry was invalid and nonest, the High Court could not have directed imposition of other punishment and such a direction was contrary to law. There is considerable force in the contention of the appellant. If the enquiry was nonest, the High Court could not have directed imposition of any other punishment.

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5. At this stage, Mr. Amarendra Sharan, learned Additional Solicitor General, appearing for the respondents submitted that the respondents are willing to grant family pension to the appellant making it clear that it was offered on the peculiar facts of the case and the same not being treated as precedent. Learned counsel for the appellant agreed that the matter can be treated as closed if the appellant is given family pension.

6. In view of the above, the appeal is disposed of by modifying the order of the High Court by recording the submission of the respondents that appellant will be granted family pension from the date of death of her husband. She will not be entitled to any monetary relief in regard to the period between 5.12.1997 and the date of her husband's death. Compliance and payment of arrears within three months.

.....J.
(R.V. RAVEENDRAN)

New Delhi;J.
November 14, 2008. (J.M. PANCHAL)