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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA 2037/99

New Delhi this the 26th day of June 2000

Hon'ble Dr. A. Vedavalli, Member (J)

Susheela Wd/o
Late Sh. Chand Ram
Village, Jharoda Kalan,
Najafgarh,
Delhi-92. Applicant

(By Sh. Yogesh Sharma, Advocate)

Vs.

1. N.C.T. of Delhi
through The Secretary,
Old Secretariate, Delhi.
2. The Chief Engineer, (I & F)
Govt. of NCT of Delhi, IV Floor,
ISBT Building, Delhi. Respondents

(By Advocate : Rajinder Pandita)

O R D E R

Hon'ble Dr. A. Vedavalli, Member (J)

The applicant, Susheela, working as a casual labourer on muster roll basis under Respondent No. 2 is aggrieved by the non-regularisation of her services by the Respondents and has challenged the said action in this O.A.

2. The facts of this case briefly are that the husband of the applicant was working as a work charged Driver in the Office of Respondent No. 2. He died in harness on 27.10.1991. Thereafter, the applicant made a representation for appointment on compassionate ground. She was appointed as a Beldar/Coolie on Muster Roll basis in December 1992. The applicant subsequently submitted representations to the Respondents for her regularisation. Two

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representations submitted by her to the Respondents are placed at Annexures 'A1' and 'A2' to the OA. However, no reply was given to the said representations by the respondents.

3. Two reliefs viz., 1) an order to direct the respondents to regularise the services of the applicant and 2) an order directing the Respondents to treat the Muster Roll service period of the applicant as a regular service for all purposes have been claimed in this O.A.

4. I have heard both the learned counsel for the parties. Perused the pleadings and the material papers and documents placed on record. Matter has been considered carefully.

5. Learned counsel for the applicant, Shri Yogesh Sharma, submitted at the outset that he is not pressing relief No. 2 claimed in this OA. Hence, relief No. 1 alone survives for consideration.

6. It was submitted by the learned counsel for the applicant that the initial appointment on compassionate grounds should have been done on regular basis. While so, the Respondents have failed to give such an appointment to the applicant. Moreover, they have not bothered to regularise her services in spite of the fact that she had been working for several years and Respondents have appointed a similarly situated widow Smt. Angoori Devi on compassionate ground on regular basis in the year 1997. He

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contended that the action of the Respondents is illegal, unfair and violative of Art. 14 and 16 of the Constitution. He placed strong reliance on the judgement of the Apex Court in Sushma Gosain Vs. Union of India AIR 1989 SC 1975 and argued that compassionate appointment to the applicant should have been given immediately after the death of her husband who died in harness and that there is no justification for their inaction in this regard. He prayed that the OA may therefore be allowed with costs.

7. Learned counsel for the Respondents, Shri Rajinder Pandita in reply submitted that the husband of the applicant was working as a work charged Driver under the Respondents until his death and that though he was conferred temporary status, he was not a regular Driver. However, the applicant was appointed as a Beldar/Coolie on Muster Roll basis by an order dated 17.12.1992 on compassionate grounds for one year and thereafter she was treated as a casual worker. The applicant joined the Respondent's Department on 21.12.1992 and was allowed to draw equal pay for equal work w.e.f. 11.11.1993 after she completed 240 days of continuous service in a calendar year. It was further submitted that there were much more senior Beldars available in the Department and their regularisation cases were taken up earlier. As the applicant is very much junior, her case was not taken up. However, learned counsel for the Respondents stated that the case of the applicant will be considered as per her seniority. In this connection he relied upon a recent order of this

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Tribunal (Principal Bench) dated 1.3.2000 in the case of Pritam Dass Vs. Government of N.C.T. of Delhi & Ors. (OA No. 1659/96) and prayed that the present OA is devoid of any merit and deserves to be dismissed.

8. It is seen that there is no averment in the counter filed by the Respondents as to the specific position of the applicant in the seniority list of casual workers. Seniority list of casual workers and other relevant material, documents, in this connection, if any, have also not been filed by the Respondents. However, in view of the averments made by the Respondents in their counter as well as the statement made by their learned counsel during the hearing that the applicant will be considered for regularisation as per her seniority position in the seniority list of casual workers, the O.A is disposed of with a direction to the Respondents to regularise the services of the applicant strictly in accordance with the aforesaid averments/statement made by them.

O.A. is disposed accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

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