

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.200 of 1997

New Delhi, this the 4th day of September, 1997.

Hon'ble Mr. S.P. Biswas, Member(A)

(9)

Suresh Bala
W/o Late Sh.Rajpal Singh,
H.No.WZ-144, Dasghera,
Todapur
Delhi - 110 012

...Applicant

(By Advocate : Sh.B.N.Bhargava)

Versus

Union of India : Through

1. The Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi
2. The Chief Engineer (NDZ) II,
CPWD, Nirman Bhawan,
New Delhi

... Respondents

(By Advocate : Shri R.P. Aggarwal)

ORDER(Oral)

Hon'ble Mr. S.P. Biswas, Member(A) -

The short question for determination is whether the applicant herein is eligible for consideration for appointment on compassionate grounds following the death of her husband on 14.07.1990. As per the applicant, she fulfills all the criteria laid-down in Annexure R-1 dated 30.06.1987 issued by the Department of Personnel. The respondents have come up with a reply only in 1994 vide Annexure R-2 dated 14.01.1994 followed by another letter on 20.12.1996. Both these communications do not contain any details as to why the appeal for appointment on compassionate grounds could not be acceded to. The

AP

order bear the face of Sphinx. It states: "it is regretted that it cannot be acceded to as it is not covered under rules". Which rule or which exact provision of Rule or Sub-Rule of executive instructions hits the case is not known. Grounds for rejection of such appeals can not remain in anonymity of the mind of the authorities issuing it. It is supposed to be disclosed and known. Applicants are entitled to know the reasons for rejection and so is the Tribunal which exercises the powers of judicial review over administrative orders. Respondents have not done that.

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2. The counsel for the applicant drew our attention to Para 4.5 of the OA to say that there has been a discrimination since the respondents have provided jobs on compassionate grounds to two widows, namely, Smt. Laxmi W/o late Shri Raman and Smt. Thanuja W/o late Shri Rajan C.K. and, therefore, denial of the same benefit to her is arbitrary and illegal. In the counter, the counsel for the respondents would show that the husband of the applicant herein was a "Muster Roll" employee and as such is not a Government employee. He belongs to the casual category and, therefore, not entitled for the benefits envisaged in the Scheme dated 30.06.1987. He drew my attention to Para 5 of his counter wherein he has mentioned that "The husband of the applicant was a Muster Roll employee and therefore was not holder of any Civil post. The casual worker/Muster Roll employee is therefore not a Govt. employee and as

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such is not covered by the said O.M." and, therefore, the counsel argued that the family of the deceased is not entitled for any benefit to be given by the Government.

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3. If the rule prohibits a casual labour to enjoy the benefit, this should have come out in the reply statement of the respondents dated 14.01.1994 and 20.12.1996. The respondents have not come out with the reasons for rejection in their communication and that was expected of them when the basic claim itself has been denied. The instructions laid-down vide Annexure R-1 stipulates consideration of compassionate appointment to those eligible members as in the instructions provided the family is in immediate need of succour, that there is eligible boy or girl etc. have the necessary prescribed qualification, and that there are evidences to support the claim that the economic conditions of the family are really bad to warrant such considerations. It is not known which one of the conditions laid down could not be fulfilled.

4. At the same time, the details submitted by applicant are not adequate enough to substantiate the very important condition of eligibility and that the family is in immediate need of succour for which the appointment was being sought to overcome immediate economic distress. In fact, the circular indicates certain terms and conditions on the basis of which such claims can be made. I find that the proforma which was supposed to be annexed along with

the application was also not there. As per the counsel for the applicant, the poor widow is illiterate and was possibly not aware of these details. That is no argument to substantiate a case. It is well settled in law that casual or purely ad-hoc employees or those who are working as apprentices are not covered under the present provisions. If any authority is required it is available in the case of State of Haryana & Ors. Vs. Rani Devi & Another, 1996(5) SC 451 decided on 15.07.1996.

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5. After having perused the records, I am of the firm opinion that the applicant has not succeeded in making out a case for compassionate appointment. This is not to say that the applicant has no case. The case has to be made out on the basis of instructions laid down on the subject. I am also aware of the instructions of the Hon'ble Supreme Court on the subject that even if the Court or Tribunal reaches a conclusion that the applicant has made out a case, all that the Court or Administrative Tribunal can do is only to direct the authority concerned to consider the claims of the applicant in accordance with the relevant rules on the subject. (See Union of India & Ors. Vs. Bhagwan Singh - 1995(6) SCC.476 and State of Haryana Vs. Naresh Kumar Bali - 1994(4) SCC.448).

6. Since the grounds on which such claims can be made has not been established on record, an application of this nature can be disposed of by

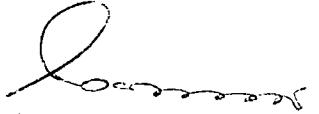
directing the respondents to consider the case on the basis of necessary details that are required to be submitted.

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7. In view of the circumstances, the application can be disposed of with the following directions:

(i) The applicant is directed to make a fresh representation which should contain proof of eligibility, details of economic status and other essential conditionalities as stipulated in the GOI circular dated 30.06.1987. If the representation is made by the applicant within a period of one month from the date of receipt of a certified copy of this order, the respondents shall consider the same keeping in view delay, if any, the allegation of discrimination made by the applicant, the reason for not having accorded status of regularisation to the employee after 1979 and if Muster Roll employees are to be covered under this Scheme or not. The said representation shall be disposed within a period of three months from the date of receipt of the same from the applicant. The applicant shall also be informed of the decision, along with a speaking order with reference to her appeal dated 29.02.1996.

8. The OA is disposed of as above. No Costs.


(S.P. Biswas)
Member(A)

/Kant/