

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 20/89
T.A. No.

199

DATE OF DECISION 14.2.1992

Smt. Vimla Devi w/o late	Petitioner Applicant
Shri Shiv Dayal Singh	
Shri K.L. Bhatia	Advocate for the Petitioner(s) Applicant
Versus	
Union of India & Others	Respondent
Shri M.L. Verma	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant is the widow of Shri Shiv Dayal Singh, who died on 27.3.1987. The applicant's version is that he died in harness, while the respondents have denied this in their counter-affidavit, as, according to them, he was taken off from work/engagement as punishment w.e.f. 28.2.1987. The applicant has prayed for a direction to the respondents to transfer the name of her husband to the regular establishment of the Delhi Milk Scheme from

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the date of his initial appointment as Badli Worker till his death, that she should be paid the arrears of pay and allowances which would have been due to her late husband on such transfer to regular establishment, and that she should be appointed in the D.M.S. on compassionate grounds in compliance with the instructions and policy of the Government of India.

2. We have carefully gone through the records of the case and have considered the rival contentions. The applicant is basing her claim on the judgement of this Tribunal dated 21.10.1987 in D.M.S. Employees Union Vs. Union of India & Others, A.I.R. 1988 (1) C.A.T., 183, wherein the respondents were directed to transfer daily-rated Mates who had actually worked for not less than 240 days in any period of 12 months, to the regular establishment w.e.f. the first day of the month immediately following the 12th month of the said period. The respondents were also directed to pay to such employees the same salary as was being received by regular Class IV Mates from the dates of their appointment as Badli Workers.

3. According to the applicant, her husband has worked in the D.M.S. for about three years as a daily-paid Mate. He fell ill during the period of his service and was admitted to Dr. ^Q R.M.L. Hospital, New Delhi, for treatment.

but he died on 27.3.1987. The request of the applicant for transferring her husband to the regular establishment and payment of arrears of salary and allowances to her as admissible to her late husband as well as for appointing her on compassionate grounds, has not been acceded to by the respondents.

4. The respondents have contended that the judgement of the Tribunal relied upon by the applicant is not applicable in the instant case, and that the husband of the applicant was, during his life time, taken off from duty as punishment after serving him show-cause notice and making an inquiry on 31.1.1987 for a month. He had misbehaved and made the Management stop supply of 84,000 litres of milk to the citizens. As regards her request for compassionate appointment, the respondents have contended that the applicant cannot claim it as a matter of right.

5. Since the husband of the applicant was removed from duty after serving him a show-cause notice and making an inquiry, his case cannot be treated like other Badli Workers who have been transferred to the regular establishment. The applicant has not challenged the validity of the show-cause notice and the inquiry and the punishment imposed on her late husband. In this view of the matter, we are of the opinion that the applicant is not entitled to arrears

of pay and allowances claimed by her.

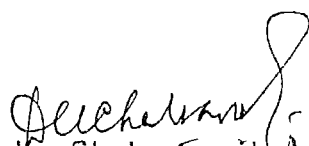
6. As regards her request for appointment on compassionate grounds, the respondents have stated that the compassionate appointment is made only in the case of death of a regular employee and not the daily-rated persons. In the instant case, the applicant is a young widow aged 22 years. The respondents should have considered her request for appointment on compassionate grounds even though her husband had not been transferred on regular establishment. In the interest of justice, we dispose of the present application with the direction that the applicant may make a representation to the respondents setting out the grounds on which she is seeking appointment on compassionate grounds. She may do so within a period of one month from the date of receipt of this order. On receipt of such a representation, if any, the respondents shall consider the same within a period of three months thereafter, in the light of the instructions issued by the Department of Personnel & Training on the subject of compassionate appointments. The fact of her being the widow of a Badli Worker should not stand in the way of her being appointed on compassionate grounds, provided that she is otherwise found suitable for such appointment on the basis of the points made in her representation and such enquiries as the respondents may wish to make.


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7. There will be no order as to costs.


(D.K. Chakravorty) 14/2/92
Administrative Member


(P.K. Kartha) 14/2/92
Vice-Chairman(Judl.)

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