

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.1537 of 2004

New Delhi, this the 5th day of January, 2005

HON'BLE SHRI SHANKER RAJU, MEMBER (JUDICIAL)

1. Smt. Dulari Devi
Wd/o late Shri Raj Pal Singh,
R/o Q.No.268, Alignaj, Lodhi Road,
New Delhi.

2. Smt. Basanti
Wd/o late Shri Man Singh,
R/o Village Jakoda,
Distt. Rohtak (Haryana).

....Applicants

(By Advocate : Shri Yogesh Sharma)

VERSUS

1. Union of India through the Secretary,
Ministry of Home Affairs, Govt. of India,
New Delhi.

2. The Director General
BSF Head Quarter, CGO Complex,
Lodhi Road, New Delhi.

.....Respondents

(By Advocate :Ms. Meenu Mainee)

ORDER (ORAL)

Learned counsel of the parties heard.

2. MA 1283/2004 for joining together is allowed.

3. It is trite law that regularisation of appointment is governed by the statutory rules, which cannot be relaxed. For regularisation of a casual worker under the prevalent Scheme, the minimum educational qualification is to be adhered to as per the requirement.

4. For compassionate appointment, there is an exception.

A person who has been appointed on compassionate ground, as is the case in the present OA, while being considered for regularisation or appointment to regular Group 'D' post, there could not be the requirement of passing the requisite educational qualification as provided for in the recruitment rules, as per the

statutory rules for an appointee appointed on compassionate ground which formulated in the form of Scheme by the Govt. of India in the year 1998. 8

5. In the above circumstances, the applicants are legally wedded widows of late Constable Shri Raj Pal Singh and late Constable Shri Man Singh respectively. These applicants were initially engaged as Farash/Water Carrier on compassionate ground. Having worked for more than 13 years, when the issue of regularisation had come up, the respondents by an order dated 9.4.2003 informed that the applicants' case for regularisation to the posts of Group 'D' requires at least 8th standard educational qualification, which the applicants does not possess. As such the applicants' cases for regularisation to the post of Group 'D' post has been turned down.

6. Learned counsel of the applicants relying upon the instructions on Compassionate Appointment contended that the requirement of 8th standard education qualification is not an impediment because this requirement under the statutory rules meant for compassionate appointment are deemed to be relaxed for compassionate appointee.

7. On the other hand, learned counsel of the respondents has vehemently opposed the contentions of the applicants' learned counsel and argued while referring to the Recruitment Rules which provides that for appointment to a post of Group 'D', a person should have possessed at least 8th standard educational qualification. As the applicants are not possessing the aforesaid requisite educational qualification, they are not entitled to be regularised to Group 'D' post and their cases will be considered for regularisation only when they acquire requisite qualification for the post. h

8. I have carefully considered the rival contentions of the parties and perused the material placed on record.

9. It is not disputed that although the applicants offered an appointment on compassionate basis and they have worked as such for more than 13 years. While considering the cases of the applicants for regularizing their services to the post of Group 'D', the respondents have not taken into account the clause 8 of the instructions contained in OM dated 29.7.1998 whereby an exception is provided which relaxed the requisite condition of educational qualification for a compassionate appointee to be considered for regularisation to the post of Group 'D'. As such the requisite conditions of educational qualification as provided by the Recruitment Rules are deemed to be relaxed in the case of compassionate appointee. In this view of the matter, the stand taken by the respondents is not sustainable in the eyes of law and is contrary to the guidelines provided for by the Govt. of India under the Scheme for Compassionate Appointment.

10. In the result, the present OA is allowed. The Impugned orders are quashed and set aside. The respondents are directed to offer regularisation to the applicants in Group 'D' post within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
MEMBER (JUDICIAL)

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