

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 67/2004  
MA 830/2004

New Delhi, this the 25<sup>th</sup> day of October, 2004

Hon'ble Mr. Shanker Raju, Member (J)  
Hon'ble Mr. S. K. Malhotra, Member (A)

Hari Shanker Gupta,  
Silled worker Grade-II,  
S/o Shri Babu Lal,  
Office of the Director,  
Small Industries Service Institute,  
Kham Bangla Campus, Kaladhungi Road,  
Haldwani – (Distt. Nainital) – Uttaranchal.

...Applicant.

(By Advocate Shri D.N. Sharma <sup>Sec</sup>)

Versus

1. Union of India,  
(Through:- The Secretary to the Government of India,  
Ministry of Small-Scale Industries, Udyog Bhawan,  
New Delhi.
2. The Director,  
Small Industries Service Institute,  
34, Industrial Estate, Nunhai,  
Agra-282 006.
3. The Director,  
Small Industries Service Institute,  
Kham Bangla Campus, Kaladhungi Road,  
Haldwani – (Distt. Nainital) – Uttaranchal.
4. Shri S.N. Dwivedi,  
C/o The Director, Small Industries Service Institute,  
34, Industrial Estate, Nunhai,  
Agra-282 006.

(By Advocate Shri N.K. Aggarwal)

ORDER (ORAL)

1. Heard the learned counsel for the applicant.
2. It is trite law that cause of action dies with the person. However, an exception to it is, when cause of action survives and there can be grant of consequential benefits to the deceased or LRs, the same survives and is sustainable in the light of full bench judgement in the case of Mrs. Chandra Kala Pradhan Vs. Union of India (ATFBJ 1997-2001 410).
3. Applicant who was earlier terminated as a casual worker raised an industrial dispute, however there was no reference to the regularization.

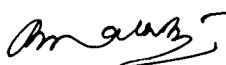
Accordingly the benefits had been granted. Respondents challenged this before the High Court which was dismissed with liberty to them to assail it in accordance with law before us. Tribunal on limitation rejected the OAs. However, the applicant assailed the action of the respondents of non-regularising him.

4. Directions have been issued vide order dated 8.10.1999 in OA 119/96 to the respondents to consider the regularization of the applicant against the permanent post in accordance with law and rules as and when vacancies arise.


5. In this view of the matter on availability of vacancy the applicant was regularized from 17.11.2000.

6. Learned counsel for the applicant states that he should be considered for regularization w.e.f. 4.5.1973 or from the date when juniors have been regularized.

7. We have scanned from the pleadings and also affidavit filed by the respondents, we find that the juniors as mentioned by the applicant are not forming the same class. They are either the adhoc employees or those who have been on regular basis against regular posts. In this view of the matter we find that the cause of action does not survive and this proceeding abates. Moreover Articles 14 and 16 of the Constitution of India have application only. When a comparison is drawn between two equally situated persons, unequals cannot be treated equally. In this view of the matter, finding no merit, OA is dismissed. No costs.

  
(S.K. Maithotra)  
Member (A)

/gkk/

  
(Shanker Raju)  
Member (J)