

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.734/92

Date of Decision: 4-6-93.

Smt. Kannamma

Applicant

Versus

Union of India

Respondents

Shri S.M. Garg

Counsel for the applicant.

Ms. Sunita Rao

Counsel for the respondents.

J U D G E M E N T

(delivered by Hon.Member(J) Shri C.J. RY)

This OA has been filed under Section 19 of the Administrative Tribunal's Act, 1985, by Smt. Kannamma, against non-consideration of her representations for compassionate appointment for any suitable post.

2. According to the applicant, her husband was working as a casual labourer in the Railways as a Safaikaramchari. He died in harness on 29.7.89, while he was performing his official duties at platform No.6-7 at about 10.30. pm. At the time of his death, he was carrying two tubes weighing about 30 kgs. each on his two shoulders. He was working on daily rate basis against the sanction of day to day absentism. She states that her husband was Hale and Healthy and without any ailment. The death due to heart attack was basically due to type of work assigned to him. She is left with a baby of about 9 months. Her representations did not elicit any reply. She has prayed for calling the records of the case and pass an order directing the respondents to give appointment on compassionate ground to her or any appropriate job in the organisation.

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2. The respondents have stated in their counter affidavit that the husband of the applicant was engaged as casual labour from time to time against the sanction of day to day absentees. He was performing normal duties as a routine matter on the day of his death and as such, he was not assigned extra labour. The death as shown by the post mortem report has occurred due to severe heart attack and the cause of death was natural. The death did not occur due to heavy pipes being carried as alleged in the application. There is no question of their shrinking from their responsibilities. The applicant is not covered under Rules as it is evident from Annexure-D, which says that Ministry of Railway have decided that if casual labour of temporary status dies in harness, employment to his ward will be provided only in cases constituting extreme hardship and meriting special consideration. The General Manager is to exercise his personal discretion. Further, the suitability test of the applicant can only be taken if she is covered for consideration for appointment on compassionate grounds. As such, the grounds taken by the applicants are untenable.

3. I have heard the learned counsel for both parties and perused the documents on record.

4. I am of the view that if the second time work of the deceased applicant in 1989 is on his own, he is not entitled for regularisation. It is not brought to my notice, that the service rendered by the applicant in the second time was at the instances of the respondents. Under the circumstances, the

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counsel for the respondents states that the applicant has worked only for 137 days and therefore, he cannot be granted temporary status in accordance with the Rules. A delay is also there in filing this OA under Section 21 of the Administrative Tribunal's Act, 1985. Therefore, the applicant is not ~~applicable~~ ^{eligible} for compassionate appointment. However, without going into the merit^s of the case, I fondly hope ^{if they so choose,} that feasibility of considering the case of the applicant based on her eligibility and suitability for any suitable post being a widow as young as 21 years with a 9 month old baby, would not only give an opportunity to lead an undependable life, but also open a ^{new} lease of life to live in esteem. The same shall not be treated as a precedent, as the deceased employee has not acquired temporary status. With the above observation, ^g we dispose of this OA with no order as to costs.

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Handwritten:
 (C.J. ROY)
 MEMBER (J)
 4/6/93