

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No. 305 of 2001.

Allahabad this the 26<sup>th</sup> day of April 2004.

Hon'ble Mrs. Meera Chhibber, Member-J.

Smt. Sushila Devi  
widow of the late Komal  
aged about 38 years  
resident of Village Kot  
P.O. Isagarh, District Jhansi (U.P.)

....Applicant.

(By Advocates : Sri S.K. Misra/  
Sri M.P. Gupta).

Versus.

1. The Indian Council of Agricultural Research,  
New-Delhi through the Secretary.
2. The Union of India through the Secretary,  
Ministry of Labour Department of Personnel  
and Training New Delhi.
3. The Indian Grassland & Fodder Research Institute  
Gwalior Road, Jhansi through the Director.

.....Respondents.

(By Advocates : Sri J.N. Tewari/  
Sri D.P. Tripathi)  
Shri B.B. Sirohi

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This O.A. has been filed by the widow who is claiming  
compassionate appointment on the ground that her husband  
had joined respondents as a Mazdoor on casual basis in  
1977. He was conferred with temporary status and had  
already put in 23 years of service when her husband  
died due to a snake bite while working in fields of  
respondents.

2. Respondents on the other hand have not disputed that  
applicant's husband had worked with them for 23 years or  
that he died due to snake bite while working in their



fields but they have simply submitted that they had sought a clarification from Department of Personnel & Training on whether casual labour with temporary status were entitled for compassionate appointment or not to which they replied as follows:-

Since grant of temporary status is without reference to availability of a regular group 'D' post, the benefit of compassionate appointment is not applicable to such labour. Applicant has challenged this letter also. Applicant's counsel relied on following judgments 1995 lab I.C. 718 and 1989 lab I.C. 192 while counsel for the respondents relied on 1996 J.T. (6) 646 and judgment dated 27.3.2000 passed by Hon'ble Vice Chairman of this Tribunal in O.A. No.1355/98.

3. Counsel for the applicant strenuously argued that since applicant's husband was already made temporary by giving him the scale etc, he would her family would be entitled to all benefits which are available to a temporary government servant. I am afraid such a contention cannot be accepted temporary status is conferred on the casual labour under a scheme formulated by Government of India and that scheme itself clarifies that grant of temporary status is not dependent on availability of posts and para 5 of said scheme further clarifies that a casual labour with temporary status is to be treated as part with temporary group 'D' employees only for the purpose of contribution of General Provident Fund, festival advance, flood advance. Para 6 further provides that no benefits other than those specified in para 5 will be admissible to casual labourers with temporary status.

4. Perusal of above paras make it clear that casual labour with temporary status are entitled to some of the benefits only and cannot be treated as temporary government servant for all purposes. The judgments relied upon by



applicant's counsel would not be applicable they were appointed against substantive vacancies, therefore, contention of applicant's counsel has to be rejected. Admittedly applicant's husband was working only as Casual Labour with temporary status and he had not yet been regularised, therefore, in normal course his family would not have been entitled for compassionate appointment. However, specially keeping in view the judgment given by Hon'ble Supreme Court in the case of state of Haryana & Others Vs. Rani Devi & Another reported in J.T.1996(6) SC 646 wherein it was held as under:-

" According to us, when the aforesaid Government order dated 31-10-1985 extendeds the benefit of appointment to one of the dependents of the 'deceased employee' the expression 'employee' does not conceive casual or purely ad-hoc employee or those who are working as apprentices.

5. In the present case it is seen that applicant lost her husband because he got a snake bite while working in the fields of respondents coupled with the fact that he had already put in 23 years of service with respondents, in these circumstances respondents had a duty to consider the case of applicant with some compassion as after all applicant's husband died because them. It is really a hard case and compassion is required to be shown in such a case where cause of crisis itself is department. It is quite understandable that they cannot could not have offered compassionate appointment to the applicant as departments of regular employees have also not been able to get the employment due to restriction of 5% vacancies put on compassionate appointment and court cannot give direction to the Department to exceed that limit. Interestingly Department has nowhere stated that family was not in an indigent condition but have only stated that he was a casual labour with temporary

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status. If Department really wants to helps the applicant ways can always be found out. Department could have considered the applicant atleast for casual engagement, if they were satisfied that compassion needs to be extended to the family. Therefore, in the peculiar facts and circumstances of the case this case is remitted back to the authorities with a direction to consider the family circumstances of the applicant and if department is satisfied that the family is in an indegent circumstances to consider if it feasible to engage applicant or her son on a casual basis. The final speaking orders shall be passed within 2 months from the date of receipt of a copy of this order under intimation to applicant.

6. With the above direction, this O.A. is disposed off with no order as to costs.



Member-J.

shukla/-