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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 407 OF 1998
Cuttack, this the 19th day of September, 2000

Tularam Bagh

...Applicant

Vrs.

Director, Central Cattle Breeding Farm
and another ...

...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*

2. Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not? *No*


(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *19/9/2000*

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 407 OF 1998
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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Tularam Singh, a aged about 28 years, son of late Padma
Bagh, Ex-T.W.S., C.C.B.F., At-Rajiv Nagar,
PO/PS-Sunabeda, District-Koraput
..... Applicant

Advocate for applicant -Mr.D.P.Dhalsamant

Vrs.

1. Director, Central Cattle Breeding Farm,
P.O-Sunabeda, District-Koraput.
2. Union of India, represented through the Secretary
to Government of India, Ministry of Agriculture and
Animal Husbandry, Krishi Bhavan, New Delhi.
..... Respondents

Advocate for respondents-Mr.S.B.Jena
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has
prayed for a direction to the Director, Central Cattle
Breeding Farm (CCBF), Sunabeda, to honour his earlier
commitment and to employ the applicant under
rehabilitation assistance scheme.

2.The applicant's case is that her mother
joined as a Fodder Cutter (Casual Worker) in 1982 in
CCBF, Sunabeda and expired on 25.9.1992. The applicant
filed a representation on 14.9.1995 asking for

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compassionate appointment. The applicant has stated that respondent no.1 promised to consider his representation in the light of employment provided to one Khila Sonia on 16.5.1989 on the death of his father Khilla Dhana. CCBF Workers Union also pursued the matter with respondent no.1. Ultimately in order dated 14.7.1998 (Annexure-3) respondent no.1 informed the President of the CCBF Workers Union that the Ministry of Agriculture, Department of Animal Husbandry and Dairying intimated, in consultation with the Department of Personnel and Training that the benefit of compassionate appointment/rehabilitation assistance is not admissible to the family of deceased casual workers who were granted temporary status. The applicant has stated that the respondents have committed an error by putting the temporary status workers of CCBF, Sunabeda, on the same footing as TSW elsewhere. He has stated that earlier a memorandum of settlement was entered into by the respondents with the Union, copy of which is at Annexure-A/4. According to the applicant, in this memorandum of settlement it has been mentioned that all the casual workers would be regularised. The applicant has made various averments with regard to regularisation of casual workers and has stated that his mother, who was a temporary status casual worker, was not regularised because of laches of the respondents and because of this at the time of her death she continued to remain as a temporary status worker and therefore for the laches of the Department, he should not be deprived of compassionate appointment. The applicant has stated that temporary status workers

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of CCBF, Sunabeda, cannot be treated at par with other temporary status workers of the country and all the temporary status workers of CCBF, Sunabeda are deemed to be regular employees and because of this the applicant is entitled to compassionate appointment.

3. The respondents in their counter have stated that the petition is not maintainable because the cause of action arose on 25.9.1992 and the applicant has approached the Tribunal only in 1998 after a lapse of six years. They have also denied that the applicant's mother joined as Fodder Cutter because no such order was issued in her name. She was a casual worker. They have stated that no scheme is in existence in respect of granting rehabilitative assistance to wards of casual workers who die in harness. They have mentioned that the Ministry of Agriculture has clarified about inadmissibility of rehabilitation assistance to such persons. On the point of regularisation it has been mentioned that the memorandum of settlement does not speak about granting of rehabilitation assistance to the family of the deceased casual workers. They have further stated that proposal was sent to the Ministry for creation of posts for regularisation of services of the casual workers. The Scheme of conferment of temporary status was introduced from 1.9.1993 and the applicant's mother died in September 1992 prior to introduction of the scheme of conferment of temporary status. They have stated that the Work Study Team have analysed the work of the Farm and have recommended manpower of only 66 persons whereas the existing strength of the Farm is much more and therefore it is not possible to engage

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even a fresh casual worker. They have also stated that a similar matter from the CCBF, Sunabeda came up before the Tribunal in OA No. 637 of 1997 and the Tribunal relying on the decision of the Hon'ble Supreme Court in the case of State of Manipur v. Thingujam Brojen Mettei, Civil Appeal Nos.8226 and 8228 of 1996 (decided on 10.5.1996), have rejected the prayer for compassionate appointment. On the above grounds, the respondents have opposed the prayer of the applicant.

4. We have heard Shri D.P.Dhalsamant, the learned counsel for the petitioner and Shri S.B. Jena, the learned Additional Standing Counsel for the respondents and have also perused the records.

5. The learned counsel for the petitioner has relied on the decision of Madras Bench of the Tribunal in the case of K.Pattammal v. Union of India and others, (1994) 26 ATC 290 and the decision of the Hon'ble Supreme Court in the case of Balbir Kaur and another v. Steel Authority of India Ltd. and others, JT 2000 (6) SC 281, and the case of K.C.Sharma and others v. Union of India and others, 1998 SCC (L&S) 226. Before proceeding further it has to be noted that in K.C.Sharma's case (supra) the Hon'ble Supreme Court have held that if a judgment is a judgment in rem, then the benefit of the judgment should be allowed to other similarly situated persons and the delay in such cases should be condoned liberally. This decision has no application to the facts and circumstances of the case.

Before referring to the other two decisions it has to be noted that the applicant has averred that her mother was a temporary status worker. This cannot be

accepted because the scheme of granting temporary status to casual workers was introduced in circular dated 10.9.1993 and this came into force from 1.9.1993. The applicant's mother passed away on 25.9.1992 and therefore she was not a casual worker with temporary status. The Hon'ble Supreme Court in Thingujam Brojen Mettei's case (supra) considered the rehabilitation assistance scheme of the State of Manipur which provided that family of an employee engaged under worked charged establishment is not entitled to rehabilitation assistance on his death. A casual worker by the very nature of his/her job is engaged for work which is seasonal, intermittent and temporary in nature. He or she is also not engaged against any post. Even a casual worker with temporary status is not engaged against a post and therefore on the death of such casual worker even with temporary status the family members cannot claim rehabilitation assistance. In K.Pattammal's case (supra) the Madras bench of the Tribunal directed posthumous regularisation of deceased employee and on that basis directed that it is open for the departmental authorities to consider giving appointment to a member of the deceased employee who was ordered to be regularised posthumously. In view of the above, the decision in K.Pattammal's case (supra) has no application to the present case because the applicant's mother was not regularised and not even granted temporary status. In Balbir Kaur's case (supra) the Hon'ble Supreme Court took note of Family Benefit Scheme of Steel Authority of India Ltd. which was brought out as a result of bipartite agreement and

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took the view that the Family Benefit Scheme cannot be equated with compassionate appointment when such appointments have been provided for by the circulars of Steel Authority of India Ltd. over and above the benefits under the Family Benefit Scheme. Obviously this decision has no application to the facts and circumstances of the instant case.

6. There is one more aspect to be considered in this regard. The scheme of compassionate appointment where applicable is meant for providing immediate succour to the impoverished family of a deceased Government employee. The Hon'ble Supreme Court have time and again emphasised the urgency in such matter. It is also the settled legal position that where request for compassionate appointment comes up long after the death of the employee such cases have to be dealt with great deal of circumspection because of the fact that the family had obviously managed for sometime without compassionate appointment. In the instant case the applicant's mother passed away in September 1992 and the applicant by his own averment in paragraph 4(a) of the OA filed representation on 14.9.1995, i.e., three years after the death of his mother for compassionate appointment. This delay of three years is also a matter which is to be taken note of. Lastly even though the representation has been filed in 1995 the applicant should have approached the Tribunal within one year of passage of six months from the date of filing of representation. But he has approached the Tribunal only in 1998 after passage of another about three years of filing the representation.

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7. In consideration of all the above, we hold that the applicant is not entitled to the relief claimed by him. The Application is therefore rejected. No costs.


(G. NARASIMHAM)
MEMBER (JUDICIAL)


(SOMNATH SOM)
19.9.2000
VICE-CHAIRMAN

September 19, 2000/AN/PS