

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 409 OF 1998.
Cuttack, this the 27th day of November, 2000.

Smt. Hantal Ulash.

Applicant.

Vrs.

Union of India & Others.

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

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 469 OF 1998.
Cuttack, the 27th day of November, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G.NARASIMHAM, MEMBER(JUDICIAL).

Smt. Hantal Ulash,
W/o. Late Hantal Kesab,
EX-TSW, Badabadiagon,
Ps: Sunabeda,
Dist: Koraput.

.... APPLICANT.

By legal practitioner: M/s.Uttam Mishra, D.P.Dhalsamant,
Advocates.

- Versus -

1. Director, Central Cattle
Breeding Farm, Po: Sunabeda,
Dist: Koraput.
2. Union of India represented through
the Secretary to Govt. of India,
Ministry of Agriculture and Animal
Husbandry Krishi Bhawan,
New Delhi.

; Respondents;

By legal practitioner : Mr.S.B.Jena, Additional
Standing Counsel(Central)

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant who is a widow of one late Hantal Kesab has asked for a direction to the Director, Central Cattle Breeding Farm, Sunabeda to comply with his earlier commitment to provide rehabilitation Assistance to the Applicant.

2. Respondents have filed counter opposing the prayer of the applicant.

3. For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. According to the applicant her husband Hantal Kesab joined as Casual worker on 16.1.1984 in Central Breeding Farm, Sunabeda-2 and expired on 26-2-1995 while working as a casual worker with temporary status. Applicant represented on 14-9-1996 to give her compassionate appointment and had approached the Respondent No.1 on several occasions. She has stated that she was assured that her case will be considered in the light of the earlier employment given to one Khilla Sonia on 16-5-1989 on the death of his father but no consideration was shown to her and ultimately her prayer was rejected and communicated to the President of the Workers Union in letter dated 14-7-1998 in Annexure-3. Applicant has stated that according to the memorandum of settlement dated 3.12.1984 executed between the Workers Union and the Management of the Central Cattle Breeding Farm it was decided that casual workers will be regularised but

inspite of this Respondent No.1 had taken no step for regularisation of the applicant's husband. It is submitted that had the husband of the applicant been regularised then she would have been entitled to get compassionate appointment and because of the laches of the Respondents, her husband could not be regularised and therefore, she should not be allowed to suffer due to the laches of the Respondents and on the above grounds, she has come up in this Original Application with the prayer referred to earlier.

4. Respondents in their counter have stated that in accordance with the circular dated 10-9-1993 issued by the Ministry of Personnel, P.G. & Pension, Department of Personnel and Training, New Delhi the applicant's husband was conferred with temporary status. They have stated that family of the casual labourers with temporary status are not entitled to compassionate appointment in terms of the circulars issued by the Department and therefore, the applicant is not entitled to compassionate appointment. It is further stated that according to the works study unit, the farm can have only 66 staff as against 118 temporary status workers who are now in the roll and therefore, it is not possible to engage the applicant even as a casual worker. Respondents have further stated that regularisation of temporary status worker should not be done in the absence of post sanctioned by the Deptt and for this the Respondents have no way responsible. On the above grounds, the Respondents have opposed the prayer of the applicant.

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5. In this case on 20.9.2000, Shri D.P.Dhalsamant, learned counsel for the applicant reported no instruction and has stated that the brief has been taken away from him by the applicant. In view of this the matter is posted today for peremptory hearing and the applicant was informed by Regd. post on 25-9-2000 about the date of hearing but today when the matter was called, the applicant was absent. She has also not made any alternative arrangement for her representation. In view of this, we have heard Mr.S.B.Jena, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

6. From the above recital pleadings of the parties it appears that the admitted position is that the applicant's husband died in harness on 26-12-1995. It is also admitted position that at the time of his death he has been conferred with temporary status. Thus, the main point for consideration is whether the families of the casual workers with temporary status are entitled to compassionate appointment. Casual labourers are conferred with temporary status without reference to availability of any regular post and therefore, families of temporary status casual labourers are not entitled to compassionate appointment. This has also been clarified by the Ministry in the circular which has been annexed by the Respondents. It is no doubt true that certain Deptts. like Railways there is a scheme for giving compassionate appointment even to casual labourers' families but law is well settled that compassionate appointment can be provided only in terms of the scheme formulated in that particular organisation. In the instant scheme the scheme does not provide for giving compassionate

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appointment to the families of temporary status workers. This is also the view taken by us in O.A.No. 408/98 disposed of on 19.9.2000. In view of this, we hold that the applicant is not entitled to compassionate appointment because her husband at the time of his death was only temporary status worker and had not been regularised against any post.

7. The second point for consideration is whether the husband should have been regularised. Respondents have pointed out that in the absence of the post husband of the applicant could not be regularised in the permanent establishment. In view of this, it can not be held that because of nonregularisation of the applicant's husband the Respondents are responsible and on that ground the applicant be given compassionate appointment.

8. In the result, therefore, the Original Application is rejected. No costs.

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(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Van
(SOMNATH SOM) D/o
VICE-CHAIRMAN

KNM/CM.