

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. NO. 410 of 1998

Cuttack, this the 19th day of Sept., 2000.

Bhabi Kuldip.

....

Applicant.

-Versus-

Union of India & Ors.

....

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)
VICE-CHAIRMAN
19.9.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 410 of 1998.
Cuttack, this the 19th day of September, 2000.

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.) .

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BHABI KULDIP,
Aged about 19 years,
S/O: Late Abhi Kuldip, Village: Charagaon,
PO & PS: Semiliguda, Dist: Koraput. Applicant.

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

-Versus-

01. Director, Central Cattle Breeding Farm,
PO: Sunabeda, Dist. Koraput.
02. Union of India represented through the
Secretary to Government of India,
Ministry of Agriculture and Animal
Husbandry, Krushi Bhawan, New Delhi. ... Respondents.

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

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application u/s. 19 of the A.T. Act, 1985, the applicant has prayed for a direction to the Res. No. 1 for giving compassionate appointment to him in accordance with the commitment given to him at the time of death of his father.

- S. Som.*
2. Respondents have filed counter opposing the prayer of the Applicant and Applicant has also filed rejoinder. It is not necessary to refer to all the averments made by the parties in the pleadings. Only the essential facts urged by both sides can be noted. Applicant's case is that his father Abhi Kuldip was working as Gowala (Casual Worker) in Central Cattle Breeding Farm (in short C.C.B.F), Sunabeda-2 and while working as such, died on 4-4-1995. According to the applicant

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his father at that time was a temporary status worker. Applicant's father died while performing the night shift duty and at the time of death, the co-workers and the Union Office bearers were not allowing Respondent No.1 to remove the dead body of the father of the applicant and were also demanding postmortem, medical examinations and other enquiry into the sudden death of the father of the applicant as also compensation and rehabilitation assistance. According to the applicant, the Director, C.C.B.F, Sunabeda-2, Respondent No.1 promised to provide compassionate appointment to the Applicant in line of similar appointment provided to one Khilla Sania on 16-5-1989 whose father Khilla Dhana died on 2-5-1989. Applicant has stated that he requested several times for compassionate appointment and he presented a written representation on 3-3-1998. Workers Union also took up the matter. Respondent No.1 also moved Respondent No.2 for providing compassionate appointment to all eligible persons including the applicant but this has been turned down in letter dated 14-7-1998 at Annexure-5 and its enclosures. Applicant has stated that for compensation under Workmen's compensation Act, he has moved the appropriate authorities. Applicant has stated that Res.No.1 earlier agreed through a Memorandum of Settlement on 3-12-1984 to regularise the services of Casual Workers but deliberately, this was not done. Had the services of applicant's father been regularised then the applicant would have been entitled to compassionate appointment. He has also stated that in view of the above facts, the temporary status workers like applicant's father in CCBF, Sunabeda can not be treated at par with other temporary status workers of other CCBFs and in the above context, he has come up in this Original Application with the prayer referred to above.

S. Som.

3. Respondents in their counter have stated that the applicant's father has passed away on 4-4-1995 and he has approached the Tribunal in 1998 after passage of more than three years which is beyond the period of limitation. They have stated that applicant's father was not appointed as a Gowala. He was a casual worker who died due to ailment. His death was certified by the local Doctor and his body was taken by his friends and relatives for cremation. The applicant was never assured that he will be given employment under rehabilitation scheme. Respondents have stated that in the Memorandum of settlement dated 3-12-1984, there is no mention about providing rehabilitation Assistance to the family of the deceased casual workers. As regards regularisation it has been stated that the proposal was sent to the Ministry for creation of posts against which casual workers could be regularised but the Internal Work Study Unit assessed the work-load and found that the required man power is only 66 against which 118 temporary status workers are on the roll. In view of this, it is not possible to engage a fresh casual worker. It is further stated that the Ministry has advised in consultation with the Deptt. of Personnel and Training that the scheme for compassionate appointment does not cover the family members of casual workers including temporary status casual workers. It has also been stated that in a similar matter in O.A. No. 637 of 1997, the prayer for compassionate appointment of a widow of temporary status worker working under the Res. No. 2 has been rejected in order dated 11th day of August, 1998 going by the decision of the Hon'ble Supreme Court in the case of STATE OF MANIPUR VRS. THINGUJAM BROJEN METTEI (Civil Appeal Nos. 8226 and 8228 of 1996, decided on 10.5.1996). On the above

S. Am.

grounds the Respondents have opposed the prayer of applicant.

4. Applicant in his rejoinder has re-iterated his prayer and has only stated that his father should have been regularised and had he been regularised, the benefits of compassionate appointment would have been available to the Applicant. For non-regularisation of the services of the father of the Applicant, the Respondents are responsible and therefore, the applicant can not be made to suffer for the laches of the Respondents.

5. We have heard Mr.D.P.Dhalsamant, learned Counsel for the Applicant and Mr.S.B.Jena, learned Additional Standing Counsel (Central) appearing for the Respondents and have perused the records.

6. Learned counsel for the applicant has relied on the following decisions:

- a) K.Pattammal Vrs. Union of India & Others - (1994) 26 ATC 290;
- b) K.C.Shama and others Vrs. Union of India & Ors. - 1998 SCC (L&S) 226;
- c) Balbir Kaur and another Vrs. Steel Authorities of India Ltd and others - J.T 2000 (6) SC 281.

7. We have in a separate order delivered today in OA No.407 of 1998 dealing with a case of similarly circumstanced person analysed these decisions. The same counsel for both sides appeared in that case. It is, therefore, not necessary to refer to these cases in detail except to note that in the case of K. Pattammal (supra) the main issue for consideration was regularisation and family pension. The Tribunal directed posthumous regularisation and grant of family pension according to Rules. As regards compassionate appointment it was only mentioned that it would be open for the Departmental Authorities to consider

and appoint on compassionate ground ~~to~~ any members of the Family of the deceased Government employee. In the instant case, the applicant has not prayed for regularisation of the services of the father of the Applicant. He has admitted that his father had not been regularised in service by the time of his death. He has merely stated that for non-regularisation of the services of his father, respondents alone are responsible and because of that, the applicant should not suffer. As he has not asked for regularisation of the services of his father, the case of K. Pattammal (supra) does not provide any support to his prayer. Hon'ble Supreme Court in the case of State of Manipur (supra) had examined the re-habilitation Assistance scheme of the State of Manipur and directed that the wards of the employees of the workcharged establishment are not entitled to compassionate appointment. The engagement of the casual labourer is itself casual in nature and ^{he} does not hold any Civil post. A casual labour, with or without ^{A J. Jan} temporary status does not hold a Civil post because temporary status is conferred on the casual labourers without any availability of posts. The Ministry had also intimated in consultation with the Department of Personnel and Training that the scheme for rehabilitation Assistance does not cover the family members of casual workers with or without temporary status. Applicant has not shown any circular and order in support of his contention that he is covered under Rehabilitation Assistance scheme. Respondent No.1 has also denied that any assurance was ever given to the applicant to provide compassionate appointment to him.

8. In view of this, we hold that the applicant is not entitled to the relief claimed by him in this Original Application.

The Original Application is therefore, rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN