

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NOS. 287, 714 and 724 OF 2002
 Cuttack, this the 08th day of July, 2004

Smt. Nishamani Singh.

...

Applicant.

-Vs.-

Union of India & Ors.


...

Respondents.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? No
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No


 (B.N. SOM)
 VICE-CHAIRMAN


 (MANORANJAN MOHANTY)
 MEMBER (JUDICIAL)

08/07/04

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Present: THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN
THE HON'BLE MR. M. R. MOHANTY, MEMBER (J)

....

O. A. NO. 287/2002:

Smt. Nishamani Singh. ... Applicant.
-Versus-
Union of India & Ors. ... Respondents.

O. A. NO. 714/2002:

Smt. Nishamani Singh. ... Applicant.
-Versus-
Union of India & Ors. ... Respondents.

O. A. NO. 724/2002:

Smt. Nishamani Singh ... Applicant.
-Versus-
Union of India & Ors. ... Respondents.

For the Applicant : Mr. P. K. Padhi, Counsel.

For the Respondents : Mr. B. Dash, Mr. S. B. Jena, & Mr. U. B. Mohapatra, Additional Standing Counsel.

Date of decision: 08th/July/2004.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Jahan Singh; who was working as a Casual Labourer/Gardener-cum-Watchman/Night Watchman under the Senior Superintendent of Post Offices of Puri Postal Division since 1971-1972 was conferred with temporary status (of Gr. 'D') w.e.f. 29-11-1989. While working as such, he suffered from Cancer and died prematurely on 08.10. Said Jahan Singh left behind

his widow (present Applicant) one unmarried daughter and one Son as his legal heir. Since her request for providing an employment assistance (to one of her family members) did not yield any fruitful result, the Applicant (Smt. Nishamani Singh) filed Original Application No. 287 of 2002 seeking a direction (to the Respondents) to provide employment assistance to one of her family members. Similarly, when her request (for payment of family pension, death gratuity and cash payment towards unutilised leave) was rejected by the Respondents (under Annexure-6 dated 17-04-2002) she filed Original Application No. 714 of 2002 with prayer for a direction (to the Respondents) to release those dues and by filing Original Application No. 724 of 2002, she has prayed for a direction (to the Respondents) to consider/reconsider her husband's case for approval/confirmation in Gr.D cadre (with effect from the date his junior i.e. Res. No. 4 was approved/confirmed in the said cadre) with all consequential service/financial benefits (as has been paid to Respondent No. 4) which would have been paid to Applicant's husband, had he been approved/confirmed in the said cadre.

2. The fate of the two cases (namely O.A. Nos. 714/2002 and 287/2002) depends upon the result of the Original Application No. 724/2002 and, therefore, it is necessary to deal with, at the first instance, the grievance as raised in O.A. No. 724 of 2002.

3. Engagement of the husband of the Applicant as Casual Labourer since 1971-72 and conferment of temporary status on him with effect from 29.11.1989 not being in dispute, the Applicant has claimed that since Respondent No.4 (whose entry into the Department, as Casual Labourer was at a later point of time than the husband of the Applicant) was regularised (in the DPC held during June, 1998) w.e.f. November, 1992, her husband's case should not have been ignored for such regularisation and that, since the husband of the Applicant made several representations (with regard to his non-regularisation) that did not yield any fruitful result, it has been prayed that since the husband of the Applicant had rendered 29/30 years of service (i.e. 17/18 years of Casual Service and about 12 years of service with temporary status) and expired prematurely on 08.10.02; the family members should not have been allowed to move on the street with begging bowls. It has been stated that the deceased employee was the only earning member of the family and, therefore, a direction ought to be issued to the Respondents to regularise the service of her husband (w.e.f. the date when Respondent No.4 was regularised in November, 1992) with all consequential service/financial benefits.

4. Respondents have filed their counter; in which they have not disputed the factual aspects of the matter. However, with regard to non regularisation (w.e.f. the date when Respondent No.4 was regularised) it has been submitted that the confirmation of the husband of the Applicant in Gr.D post was taken into consideration (in the DPC held during the year 1998) along with Respondent No.4 and others; but the said DPC did not recommend the case of the husband of the Applicant for such regularisation; due to the reason that, though he had stated to have read upto Class-V he could not produce the School Certificate in support of his qualification and the date of his birth. It is the case of the Respondents that the husband of the Applicant produced a Horoscope in support of his date of birth; but, as per the latest ruling, the Horoscope in support of date of birth is not acceptable in the matter of appointment/employment and that the desirable qualification (of Vth standard pass) could not be established in absence of School Certificate and, as for regularisation, the person (even with temporary status) has to satisfy the requirement of Rules; for which the case of the husband of the Applicant could not be recommended by the DPC. It has been stated in the counter that as per the decision dated 12.04.1991 (at Para-8) of the Govt. of India, Casual Labourers with temporary status, would be treated at par with temporary Gr.D employees for the purpose of grant of certain benefits and, accordingly, deductions in respect of GPF & CGEIS etc.

was made from the salary of the Applicant. With the above statements, the Respondents have opposed the cases of the Applicant.

5. We have heard learned Counsel for both sides on the above issues and perused the materials placed on record. It is seen that even though regularisation of Respondent No. 4 took place in the year 1998 with effect from 1992, the husband of the Applicant slept over the matter (after filing the representations, as alleged) and did not take any further action for redressal of his grievances. Under the law, the man/person, who sleeps over his grievance is not entitled to get any remedy after expiry of a considerable period and in that event "delay and laches" stands on his way for redressal of his grievances. Respondents have also not stated anything, in their counter, with regard to nonconsideration of the representations made by the husband of the Applicant. However Section 21 of the Administrative Tribunals Act, 1985 clearly provides that against an order, the aggrieved party, six months after filing the representation, can approach the Tribunal, if no order is passed on the said representation or within one year from the date of the order; which has not been done by the husband of the Applicant in this case. Further on perusal of the minutes of the DPC it is seen that even though the husband of the Applicant was considered for regularisation, due to lack of documents/supporting materials he could not be considered/recommended for regularisation

in Gr.D post though he is senior to Respondent No.4. Therefore, no breach of any of the Rules or law has been shown by the Applicant, question of directing for regularisation is unwarranted. That apart, this Original Application is grossly barred by limitation. Hence this Original Application No.724 of 2002 is dismissed being of no merit.

Since the Applicant's husband was not a regular employee (as per the Rules quoted by the Respondents and basing upon which the prayer for release of the retiral dues has been rejected) no relief (for retiral benefits can be granted; more so in absence of any prayer for quashing of such Rule/letter. Hence, the O.A.No.714 of 2002 fails and is accordingly dismissed.

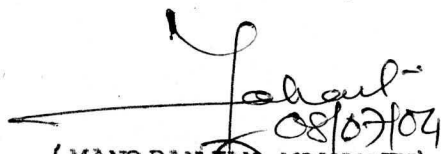
So far as the prayer for providing employment assistance made in O.A.No.287 of 2002 it is to be noted here that as per the records, the husband of the Applicant had already rendered dedicated service of 29/30 years. As per the Circular dated 05.11.1998 produced by the Respondents, though the family member of a temporary status employee is not entitled for employment assistance but here is a peculiar case; where the husband of the Applicant was allowed to serve even with the lack qualification for such a long time till his death. Except a paltry amount of his own savings, nothing has been paid in lieu of pensionary dues and not even monthly pension. It has

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been stated that the husband of the Applicant was the only earning member of his family. In this view of the matter, Postal Department being a vast organisation, there would be no difficulty, if the case of one of the members of the family of the deceased employee is considered for any work in the Department on compassionate ground. Therefore, while disposing of this O.A.No. 287 of 2002, we direct the Applicant to make a detailed representation to the Respondent No.1 (within a period of fifteen days hence); who should personally look into the matter and, if possible, provide a job to one of the family members for sustenance of the livelihood of the deceased family members, in these hard days. We hope and trust that the Respondent No.1 will look into the grievance of the Applicant within a period of sixty days from the date of receipt of such a representation.

In the light of the discussions made above, all these three Original Applications are disposed of.
No costs.


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)