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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O. A. No. 260/659 OF 2011**

Cuttack, this the 12<sup>th</sup> day of October, 2017

CORAM

**HON'BLE MR. S. K. PATTNAIK, MEMBER (J)**  
**HON'BLE DR. M. SARANGI, MEMBER (A)**

.....

Nishamani Singh,  
aged about 56 years,  
W/o Late Jahan Singh,  
At: Khakimatha Nuasahi,  
Post: Puri-2, Dist: Puri-752002.

...Applicant

(By the Advocate-M/s B. S. Tripathy, M. K. Rath, J. Pati)

-VERSUS-

**Union of India Represented through**

1. Director General of Posts,  
Dak Bhawan, Sansad Marg,  
New Delhi-110001.
2. Chief Postmaster General,  
Orissa Circle, At/PO: Bhubaneswar,  
Dist-Khurda, 751001.
3. Sr. Superintendent of Post Office,  
Puri Division, At/PO/Dist: Puri,  
Orissa, 752001.

...Respondents

By the Advocate- (Mr. S. K. Patra)

.....

**ORDER**

**S.K.PATTNAIK, MEMBER (JUDL.):**

In a second round litigation, the applicant Smt. Nishamani Singh, who is the widow of the deceased employee late Jahan Singh, has filed this O.A. for a direction to the Respondents to regularize the service

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of her husband and for grant of family pension. By filing this O.A. virtually, the applicant challenges the speaking order dated 13.08.2009 (Annexure-A/7) passed by Respondent No.3 as per the direction of the Hon'ble High Court in W.P.(C) Nos. 15377, 15378 and 15379 of 2006 (Annexure-A/4).

2. The background facts giving rise to the present litigation may be shortly stated.

The applicant had earlier filed O.A.No. 724/2002 to regularize her husband in Group-D post w.e.f. the date his juniors were conferred. The said O.A. was dismissed by this Tribunal. Being aggrieved by the said order, the applicant approached the Hon'ble High Court of Orissa, Cuttack in W.P.(C) No. 15377/2006. The Hon'ble High Court not only set aside the order of this Tribunal but also allowed the Writ giving specific direction to the Respondents to comply at their end. The relevant portion of the observation of Their Lordships may be extracted as follows:

*"Having dismissed the Original Application filed by the petitioner for regularization of service of her late husband, the Tribunal did not deal with other two original applications at all. We are, therefore of the view that once the court directs for consideration of the case of the late husband of the petitioner for permanent absorption in Group 'D' Post and it is allowed, the relief prayed in the other two original applications automatically fall for consideration and the said prayers are required to be considered by the authorities.*

*In view of the discussions made above, we set aside the impugned judgment and direct the opposite parties to consider regularization of the service of the late husband of the petitioner against Group 'D' post afresh specially keeping in view the length of service*

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rendered by him as Casual Labourer as well as an employee with the temporary status. In the event, a decision is taken in favour of the petitioner and the service of the late husband of the petitioner is regularized, the other prayers in the two original application be considered and appropriate orders be passed thereon. While taking a decision, the opposite parties shall also take into consideration the decision relied upon by the learned counsel for the petitioner in the case of **Smt. Jotsana Bala Manna Vrs. Union of India and Ors.** passed by the Central Administrative Tribunal, Calcutta Bench, Calcutta in O.A No. 721 of 2000 reported in 2005(2) Administrative Total Judgments.

All the three writ applications are accordingly disposed of."

3. After disposal of the said Writ Petition, the Respondents passed the impugned order on 13.08.2009 observing that Jahan Singh is not eligible for regular absorption in Group-D. This order of the Respondents has been passed due to misconception of law and misreading of the direction of the Hon'ble High Court. Admittedly, the husband of the applicant was conferred with temporary status w.e.f. 29.11.1989 and died on 08.10.2001. Even though the applicant's husband worked for nearly 12 years in the department his service was not regularized and now the Respondents have come up with a plea that the husband of the applicant Jahan Singh is not eligible for regular absorption in Group-D post. The million dollar question is if Jahan Singh was not eligible for absorption how he was conferred with temporary status in 1989 and allowed to continue as a temporary status employee for more than 11 years. That apart, once the Hon'ble High Court in the above mentioned Writ Petition allowed the prayer of the petitioner for absorption of her husband in Group-D post, the

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Respondents are legally prevented from passing any order which will make the order of the Hon'ble High Court infructuous or sterile. The Hon'ble Court categorically directed the Respondents to consider the regularization of the service of the late husband of the petitioner keeping in view the length of service rendered by him as casual labourer as well as an employee with temporary status. The husband of the applicant was inducted in the department in the year 1971-72 and, keeping his length of service, was conferred with temporary status w.e.f. 29.11.1989. Even the Hon'ble Court have categorically observed that Educational Qualification is irrelevant since the applicant had worked under temporary status for almost 12 years. In ordinary case, we would have initiated a suo motu contempt against the Sr. Superintendent of Post Offices, Puri Division, Puri, for his farcical order dated 13.08.2009, which has been passed in flagrant disregard and violation of the order of the Hon'ble High Court passed in the aforementioned Writ Petitions but since time has elapsed in the meantime for nearly 7 years, we refrain from doing so.

4. Since the matter of regularization of the deceased employee has already been adjudicated by the Hon'ble High Court in a bunch of Writ Petition Nos. 15377, 15378 and 15379 of 2006 disposed of vide common order dated 05.09.2008(Annexure-A/4), there is nothing to be adjudicated in this O.A. The Respondents have no other option but to regularize the husband of the applicant from the date his juniors were regularized, retrospectively. Furthermore, it is clarified that once an

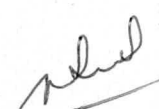
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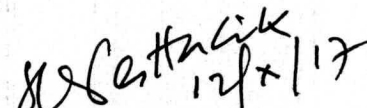


employee gets temporary status, regular absorption cannot be denied on educational ground, which could have been seen at the time of initial appointment or at best at the time of conferring temporary status if there is no stringent guidelines in this regard. That apart, after extracting work for more than two decades such a luxury is not available to the department and the Hon'ble High Court had rightly directed to reckon the regularization of the deceased employee. Hence ordered.

5. The O.A. is allowed. Speaking order dated 13.08.2009 passed in utter disregard to the orders of the Hon'ble High Court in W.P.(C) Nos. 15377, 15378 and 15379 of 2006 (Annexure-A/4) is hereby quashed. Respondents are again directed to regularize the service of the applicant's husband from the date his juniors were regularized and to grant consequential retiral benefits to the widow of the deceased employee, treating her husband as a regular employee of the department.

6. Cost is assessed at Rs. 2000/- to be paid by the Department to the applicant for unnecessary dragging her to litigation.

  
(M. SARANGI)  
Member (Admn.)

  
(S.K. PATTNAIK)  
Member (Judl.)