

42

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/726 OF 2011

Cuttack, this the ~~12th~~ day of October, 2017

CORAM

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

.....

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

(2) Nilakantha Singh,
S/o Late Jahan Singh,
Address as above.

...Applicants

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

-VERSUS-

Union of India Represented through

1. Chief Post Master General,
Orissa Circle, At/PO: Bhubaneswar,
Dist-Khurda, 751001.
2. Sr. Superintendent of Post Office,
Puri Division, At/PO/Dist: Puri, 752001.

...Respondents

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

.....

ORDER

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

In a second round litigation, the applicant No.1 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 consider the case of her son for compassionate appointment.

2. Needless to say that earlier also the applicant had approached

S.K. Pattnaik
12/10/17

43

-2-


this Tribunal in O.A.No. 287/2002 for a direction to the Respondents to provide employment assistance to one of her family members. The said O.A. was dismissed by this Tribunal along with other bunch of O.As. However, the applicant challenged that order of the Tribunal before the Hon'ble High Court of Orissa under Writ Petition No. 15379/2006. Their Lordships by a common judgment dated 05.09.2008 not only set aside the order passed by this Tribunal in the O.A. but also directed the Respondents to consider the regularization of service of late husband of the applicant No.1 against Group-D post afresh in view of the long service rendered by him. However, since the department vide order dated 13.08.2009 observed that Jahan Singh, late husband of Smt. Nishamani Singh, is not eligible for regularization in Group-D post and, accordingly, his family is also neither entitled to any retiral benefits nor entitled to any compassionate appointment. The applicants have again challenged the said order in the present O.A. to consider giving of compassionate appointment to applicant No.2 to save the family from starvation.

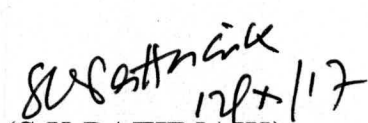
3. Needless to say that the widow had also challenged the said order refusing regularization of her husband in O.A. No. 659/2011. This Tribunal not only set aside the speaking order dated 13.08.2009 but also directed the Respondents to regularize the service of the husband of the applicant No.1 from the date his juniors were regularized and to grant consequential benefits. Since the Hon'ble High Court observed that the deceased employee was entitled to regularization, the claim of the widow

86/2011
12/1/17

cannot be brushed aside merely on the technical ground that the employee was not regularized even though he continued for more than 11 years under temporary status. Their Lordships in the Hon'ble High Court placed reliance on a decision of CAT, Calcutta Bench, reported in 2005 (2) 458 in the case of Smt. Jotsana Bala Manna Vs. Union of India & Ors. wherein the Hon'ble Tribunal has been pleased to observe that when the employee died after serving a considerable period in spite of grant of temporary status but before regularization, he shall be regularized even on completion of one year of service and more so when the person junior to the deceased employee has been regularized with retrospective effect. Since the Hon'ble High Court have given a stamp of authenticity of deemed regularization of the employee for continuing in temporary status for more than 11 years, Respondents are duty bound to treat the deceased employee as a regular employee for all purpose and are duty bound to grant other ancillary benefits like compassionate appointment to applicant No.2 if he is otherwise eligible as per the departmental norms and guidelines. Hence ordered.

4. The O.A. is allowed. Respondents are directed to consider the claim of applicant No.2 for compassionate appointment treating his father as regular employee as per their available norms and guidelines. The exercise be completed preferably within a period of six months. No costs.


(M. SARANGI)
Member (Admn.)


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