

Central Administrative Tribunal  
Calcutta Bench

No.O.A/805/1996

Date of Order: 2-1-2001

Present : Hon'ble Mr.D.Purkayastha, Judicial Member  
Hon'ble Mr.M.P. Singh, Administrative Member

Details of the applicant :

Smt. Aparna Samanta, W/o Late Shibu Samanta,  
Ex-Bridge Khalasi under Chief B.R.T. Kolaghat,  
S.E. Rly., residing at Village Naupala,  
P.O. Naupala, Dist. Howrah

.... Applicant

-Versus-

Particulars of the Respondents :

- 1) Union of India, service through the General Manager, S.E. Rly, Garden Reach, Calcutta-43
- 2) The Sr. Divisional Personnel Officer, S.E.Rly Kharagpur
- 3) The Sr. Divisional Accounts Officer, S.E. Rly Kharagpur
- 4) The Chief Bridge Inspector, now designated as Jr. Engineer, Bridge Grade-I, S.E. Rly, Kolaghat

... Respondents

Counsel for the applicant :

MR. A. Chakrabarty

Counsel for the respondents :

Counsel reported sick

ORDER

D.Purkayastha, M(J)

None appears on behalf of the respondent. The learned Counsel for the applicant, Mr. A. Chakraborty submits that the learned Counsel for the respondent, Mr. T.D. Roy is sick today so the case may be adjourned. But we cannot grant adjournment on that ground. We have heard the case. The case in short is that the husband of the applicant was initially appointed as Casual Labour in the Office of the respondent ~~and~~ as Khalasi on 28-1-70 under BRI, Kolaghat of South Eastern Railway and he was given temporary status in the month of

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July, 1970 and her husband died on 5-5-90 while he was in service. Her husband alongwith 19 others moved an original application bearing No.71/88 before the Central Administrative Tribunal praying for a direction upon the respondents to regularise them as Bridge Khalashi. That the OA had been allowed with a direction upon the respondents to regularise her husband as Bridge Khalasi in the scale of Rs 950-1500/- with effect from the date of demise and accordingly, his service was regularised with effect from the date of his death i.e. 5-5-90. Thereafter the applicant filed OA No.579 of 1992 seeking family pension and her that application also was disposed of on 20-4-95 directing upon the respondents to consider the case of the applicant for grant of family pension as per rules and other pensionary benefits. After that the respondents by a letter dated 12-2-96, Annexure-D to the application revised the earlier order of regularization and regularized them from the date of empanelment which was on 4-2-71. Now the applicant submits that her husband was also entitled to get the benefit of regularisation as casual labour in the scale of Rs 950-1500/- with effect from the date of empanelment i.e. 4-2-71 since some juniors of her husband as per panel, namely Sridam & Kasu were given the benefits of regularisation with retrospective effect i.e. from 1971 ignoring the case of the applicant's husband. Therefore the action of the respondents in respect of denial of regularisation of the applicant's husband with effect from the date of 4-2-1971 is arbitrary, illegal and discriminatory.

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The respondents vide reply to the OA denied the claim of the applicant stating inter-alia that the service of Late Shibu Samanta "husband of the applicant was regularised as Bridge Khalasi in the scale of Rs 950-1500/- from the date of his death viz 5-5-90 as per direction in OA No 71 of 1988 which was disposed of with the direction that husband shall be regularised from the date of death i.e. 5-5-90. It is also stated by the respondent that subsequently it was decided by the authority to regularise all the existing casual khalasi in the service from the date of their empanelment vide circular dated 12-2-96 (Annexure-D), but this circular is not applicable to the applicant's husband, since her husband died on 5-5-90. He was regularised w.e.f. 5-5-90 as per Tribunal's Order, so regularisation prior to that date cannot be agreed to.

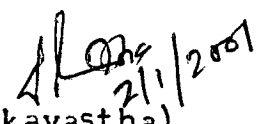
The learned advocate for the applicant, Shri Chakraborty, submits that the action of the respondents is arbitrary, illegal & discriminatory because, some of the juniors of the applicant were regularised with effect from 4-2-71 ignoring the case of the applicant. By an order dated 12-2-96, annexure-D, the respondent ought to have regularised the services of the applicant's husband, when his juniors were regularised from the date of their empanelment against Group 'D' posts. Thus her husband is also entitled to be regularised in services w.e.f. the date of his empanelment against Group D posts i.e. 4-2-71.

We have considered the submission of the learned counsel of the applicant. We have gone through the records.

We find that the services of Kasu Seikh, Sridam and others including the applicant's husband were regularised as Bridge Khalasi & that by obtaining the approval of the competent authority by an order dated 30-11-94 as per direction of the Tribunal on OA 71/88. Admittedly the services of Shibu, the applicant's husband had been regularised w.e.f. 5-5-90 as Bridge Khalasi. We further noted that the applicant's husband was senior to Shri Sridam as per list of empanelment published by the authority on 4-2-71, annexure A1 to the application. We do not find the name of Kasu Seikh, in the list (Annexure A1) but the name of Sridam was empanelled at Sl.173 of the panel dated 4-2-71. The applicant's husband viz. Shibu was placed at 151 of the said panel (Annexure A1). From the orders dated 12-2-96 (Annexure D) we find that earlier order of Sridam and Kasu Seikh & Others were revised and regularised w.e.f. 1971 i.e. the date of empanelment after the date of judgement passed in OA No.71/88. The applicant was regularised vide No.E/CC/CAT/CAB/ENG/Part dated 30-11-94 (Annexure B). We also find that Sridam was also regularised in Group 'D' w.e.f. 4-2-71 revising the earlier <sup>of Confirmation</sup> order which was done w.e.f. 3-12-94 in pursuance of the order issued by the authority as mentioned in Annexure-D to the application. So from this fact it is seen that the respondent regularised the services of Sridam, who is junior to the applicant's husband by revising the earlier order of regularisation w.e.f. 4-2-71 i.e. the date of empanelment and had given the benefit of regularisation i.e. from 4-2-71, i.e. when the applicant's husband was in service. Applicant's husband's regularisation was denied on the ground that her husband died on 5-5-90. We find that the respondents were not justified in

refusing the regularisation. We are therefore of the opinion that in the matter of regularisation the applicant's husband ought to have been considered along with his juniors who were regularised with effect from 4-2-71. Having not done this the respondent acted arbitrarily and we find that the applicant's husband has the genuine grievance. In view of the facts and circumstances of the case, we direct the respondents to regularise the services of the applicant's husband w.e.f. 4-2-71 on which date Shri Sridam got the benefit of regularisation and the applicant be given <sup>all</sup> consequential benefits of the regularisation with effect from 4-2-71 within 3 months from the date of communication of this order. No orders as to the costs. With this the application is disposed of.

  
(M.P. Singh)  
Member(A)

  
(D. Purkayastha)  
Member(J)