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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Jodhpur Bench, Jodhpur

.....
Date of Order : 18th March, 2002.

ORIGINAL APPLICATION No. 353 OF 1999

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Smt. Devki Widow of Late Shri Khinv Das, Ex Mazdoor,
I.C.A.R., Resident of C/o Shri Ram S/o Mangal Das Sadh, P.O.
Sujandesar, Village Sriramsar, Vaya Ganga Sahar, District
Bikaner.

.....Applicant.

versus

1. Union of India through the Secretary, Indian Council
of Agriculture Research Centre, New Delhi.
2. Director, Central Arid Zone Research Institute,
Jodhpur.

.....Respondents.

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Hon'ble Mr. Justice O.P.Garg,
Vice Chairman

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Mr. Y.K.Sharma, counsel for the applicant.

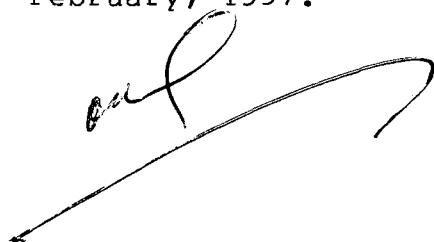
Mr. V.S.Gurjar, Counsel for the respondents.

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ORDER

By the Court :

The husband of the applicant Late Shri Khinv Das, was appointed as Casual Labour in the Indian Council of Agriculture Research in the year 1975. His services were terminated on 16th June, 1981. He raised a labour dispute and ultimately, he was reinstated in service by order dated 29th June, 1986. He died in an accident at Nagaur on 2nd February, 1997.



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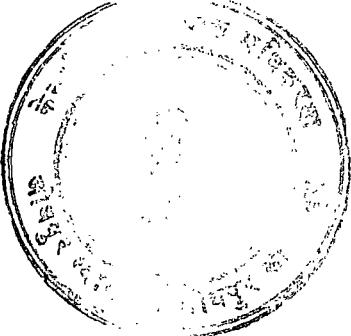
2. The applicant Smt. Devki, is the widow of the deceased Khinv Das. She sought for an appointment on compassionate ground. Since her request was not acceded to by the departmental authorities, she was compelled to file O.A. No. 216 of 1998 which was decided on 21st September, 1998 with the direction to the respondent No. 1 to decide applicant's representation in terms of the relevant rules on the subject within a period of three months from the date of receipt of a copy of the order. After consideration of the representation of the applicant, her representation has been rejected by order dated 24th December, 1998, a copy of which is Annex. A/1 dated 24th December, 1998. By means of the present O.A. under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of rejection of her representation on variety of grounds.

3. A reply has been filed.

4. Heard Shri Y.K.Sharma, learned counsel for the applicant and Shri V.S.Gurjar, appearing on behalf of the respondents. Shri Y.K.Sharma, urged that late Shri Khinv Das in course of time had acquired the temporary status in view of the provisions of the Scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" , a copy of which is enclosed with letter dated 2nd January, 1999, Annex. A/2, and, therefore, the applicant being the dependent of the deceased employee, is entitled for appointment on compassionate ground. Shri Gurjar, ~~repeated~~ submission and pointed out that in a similar case of the Council, the Department of Personnel and Training, Government of India, has clarified that since the grant of temporary status is without reference to the availability of



a group 'D' post, the benefit of compassionate appointment is not available to such employees. He further maintains that the Scheme of the year 1993 as adopted by the respondents also does not provide for such a benefit and, therefore, the applicant is not entitled for compassionate appointment on account of the death of her husband who died in harness. Shri Gurjar further placed reliance on certain observations of the Apex Court in the case of State of Haryana and Others Vs. Rani Devi and Another, AIR 1996 SC 2445. In para 7 of the said decision, the Apex Court has held as follows :-



"7. If the scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad hoc employees including those who are working as Apprentices, then such scheme cannot be justified on constitutional ground. It need not be pointed out that appointments on compassionate grounds, are made as a matter, of course, without even requiring the person concerned to face any Selection Committee."

A reference was also made to the observations made in para 8 of the said decision which runs as follows :-



"8. According to us, when the aforesaid Government Order dated 31.10.1985 extends the benefit of appointment to one of the dependents of the 'deceased employee' the expression 'employee' does not conceive casual or purely ad hoc employee or those who are working as apprentices. Accordingly, the appeals are allowed and the impugned orders on the two writ petitions, filed on behalf of the respondents are set aside. In the facts and circumstances of the case, there shall be no order as to costs."

5. Shri Y.K.Sharma, learned counsel for the applicant urged that even if, there is no provision in any rules for conferring the benefit of compassionate appointment on the



dependent of the deceased employee, the applicant would be entitled for such an appointment on compassionate ground in view of the Constitutional philosophy and the concept of social justice laid down by the Apex Court in the case of Balbir Kaur & Another etc. Vs. Steel Authority of India Limited and Ors, 2000 (4) Supreme 602. The various observations made in the said decision do not apply to the facts of the present case. In that case, there was an NJCS agreement which expressly preserved the 1982 Circular to the effect that any benefit conferred by the earlier circular, shall continue to be effective. The important point of law which was decided in that case was that the introduction of family benefit scheme cannot be a ground to deny compassionate appointment. An indepth study of the said decision would reveal that the deceased employee was in regular employment and NJCS agreement made a provision that employment would be provided to one dependent of workers disabled permanently and those who meet with that. In the instant case, there is no such agreement, practice, policy, departmental instructions or rule, providing for appointment on compassionate ground on the death of an employee. The decision rendered in Balbir Kaur's case (supra), is of no assistance to the applicant.

6. Shri Y.K.Sharma, learned counsel for the applicant could not show any rule or the departmental instructions to fortify the claim of the applicant that under the rules or the departmental policy or decisions, she is entitled for appointment on compassionate ground consequent upon the death of her husband, who was merely a casual labour or say, came to acquire temporary status under the scheme aforesaid. Even if, it be taken that the deceased Shri Khinv Das was



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granted temporary status under the Scheme of the Government of India, 1993, the applicant is not entitled to get the benefit of appointment on compassionate ground as the Scheme aforesaid, does not envisage that the dependents of a deceased employee would be provided the benefit of compassionate appointment. Temporary status is granted for a variety of purposes such as protection of pay, pensionary benefits etc. and generally, it is done without reference to the availability of a regular group 'D' post.

7. In the result, the representation of the applicant has been rightly rejected by the impugned order dated 24th December, 1998, Annex. A/l, and it can not be faulted on any ground. The applicant has no case for her appointment on compassionate ground. The Original Application turns out to be devoid of any merits and substance. It is accordingly dismissed without any order as to costs.

(Justice O.P.Garg)
Vice Chairman

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PL (409)
22/3/2002

Received
15 Mar 2002

Part II and III destroyed
in accordance on 9/7/02
under supervision of
Security Officer 11 as per
directive 14/3/02
Security Officer Record