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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR.**

Original Application No. 197/2004.

Date of decision: 08.04.2005.

HON'BLE MR. J K KAUSHIK, JUDICIAL MEMBER.

Smt. Suraj Kanwar, w/o late Shri Malam Singh, aged 29 years, r/o Bakatania, Ka Bas Village Bapinii, Tehsil Osian, Dist. Jodhpur. Shri Malam Singh an Ex Mazdoor in the Central Arid Zone Institute, Jodhpur.

: Applicant.

Rep. By Mr. Vijay Mehta: Counsel for the applicant.

VERSUS

1. Indian Council of Agricultural Research, through its Director
General, Krishi Bhawan, New Delhi.
2. Director, Central Arid Zone, Institute, Jodhpur.

: Respondents.

Rep. By Mr. V.S. Gurjar: Counsel for the respondents.

ORDER.

Per Mr. J K Kaushik, Judicial Member.

Smt. Suraj Kanwar, has filed this O.A under Sec. 19 of the Administrative Tribunals Act, 1985, and has sought the following reliefs:

- i) that the action of the respondents in not granting her family pension and other terminal benefits is ex facie illegal and void and deserves to be quashed.
- ii) That the applicant is entitled to get family pension and other terminal benefits in terms of the CCS (Pension) rule.,
- iii) That for arguments sake if her husband is taken to be a temporary status employee (which she disputes) dependants of such employees are entitled to receive family pension. It has been repeatedly held that widows of temporary status employees are entitled to receive family pension. No reasons

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have been given by the respondents to deprive the applicant from these benefits. Her husband was a GPF holder.

iv) That the applicant is entitled to get interest at the rate of 24% on the due amount. She has not been paid due to utter negligence of the respondents.

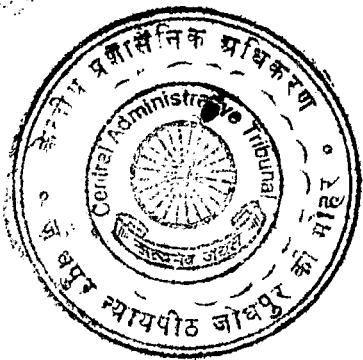
v) That the respondents cannot withhold pension and other benefits. The applicant is entitled to get the same with interest.

vi) That the action of the respondents and the impugned orders are arbitrary and discriminatory and is violative of Art. 14, 16 and 21 of the Constitution of India.

2. The Original Application was listed for admission today.

Both the learned counsel for the parties have agreed for its final disposal at the admission stage, keeping in view the short controversy involved in this case and the pleadings being complete. I have carefully heard the arguments advanced by both the learned counsel for the parties and carefully perused the records of this case.

3. The indubitable facts of this case are that the applicant is the widow of one Shri Malam Singh. Shri Malam Singh was initially appointed in the Central Arid Zone Research Institute, Jodhpur on the post of Mazdoor on 01.06.1982. After lot of litigations, he was granted temporary status on the post of casual labour and he served the department without any interruption upto 29.03.2003, the date on which he died. He rendered more than 21 years of continuous service, leaving behind a large family. An amount of Rs. 55586/- was paid as gratuity in the month of May 2003, but the family was not granted any family pension as per the rules in force. Certain disputes have been adduced regarding the status of the applicant's husband; as per her version, he was regularised



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after prolonged litigations and various orders were passed by the Courts of law. On the other hand, the respondents have refuted this position and averred that the applicant's husband was only granted temporary status and even the Scheme of 1993, regarding grant of temporary status, does not envisage that any pension is payable to such temporary status holders.

4. Both the learned counsel have reiterated the facts and grounds mentioned in their respective pleadings. At the very outset, the learned counsel for the applicant has drawn my attention to one of the decisions rendered by this very Bench of the Tribunal, wherein myself is one of the party, in the case of **Smt. Santosh vs. ICAR and others** [2004 (3) ATJ. 42]. He has submitted that the controversy involved in the instant case is squarely covered on all fours and the question involved is well settled therein and does not remain res integra. He also apprised the latest development in the matter in as much as a Writ Petition was preferred by the respondents against the order of this Tribunal in **Smt. Santosh's** case supra before Hon'ble High Court of Rajasthan at Jodhpur, in D.B Civil Writ Petition No. 1038/2005, and their Lordships have been pleased to dismiss the same vide order dated 21.02.2005 and the order of this Bench of the Tribunal in the case of **Smt. Santosh** supra has been upheld. Therefore, he contended that present case could be decided on similar lines.



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5. Per contra, the learned counsel for the respondents has submitted that as far as the legal position in the matter is concerned, there is hardly any dispute and has very fairly contended that this Bench of the Tribunal may also take into consideration the legal position as borne out by the respondents in their reply. He has reiterated the defence of the respondents as set out in the reply.

6. I have considered the rival submissions and also gone through the records of this case as well as the judgement of the Hon'ble High Court of Rajasthan at Jodhpur in the case of **Smt. Santosh** supra. At this juncture, I can only assert that the controversy involved in this case is fully covered by the decision in **Smt. Santosh case** supra and no fresh debate is called for. There is yet another reason for accepting the version of the learned counsel for the applicant since the order of this Tribunal in **Smt. Santosh** case supra has been upheld by the Hon'ble High Court of Rajasthan at Jodhpur and I am otherwise bound by the same. If that be so there is absolutely no hesitation in applying the ratio of the judgement in **Smt. Santosh** case (supra) and decide the case on similar lines.



7. In the circumspect of the aforesaid discussion, the Original Application has ample force and the same stands allowed accordingly. The respondents are directed to treat the deceased government servant i.e. late Malam Singh as regularised on the date of his death and grant family pension

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to the applicant and the arrears on this count shall be payable along with interest @ 8 % from the date of death of said Late Malam Singh till the date of payment. This order shall be complied with within a period of three months for the date of its communication. However, the parties are directed to bear their respective costs.



J K Kaushik
(J K Kaushik)
Judicial Member.

jsv

Part II and III destroyed
in my presence on 09-1-14
under the supervision of
section officer (J) as per
order dated 18-12-13

Section Officer (Records)

[Signature]
9/1/14

[Signature]
13/1/14

Copy of order
sent to Counselor
Report by Speed Regd AD

vide d. 15/1/14
Clt 19/1/14