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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 318/2004.

Date of decision: 14.09.2005.

Smt. Prem Kanwar W/o late Sh Hiru Dan Ji, aged about 32 years r/o Sadulgunj, Behind Charan hostel, Bikaner, Distt. Bikaner (Rajasthan) Ex. Casual Labour (TS) Under respondent No. 2.

: Applicant.

Rep. By Mr. S.K. Malik, & Mr. Dayaram: Counsel for the applicant.

VERSUS



1. The Secretary, Indian Council of Agricultural Research, Govt. of India, Krishi Bhawan, New Delhi. 110 001.
2. The Director, National Research Center on Camels, Jorbeer, P.B. No. 7 Bikaner, Distt. Bikaner (Rajasthan)
3. Assistant Administrative Officer, National Research Center on Camels, Jorbeer, P.B. No. 7, Bikaner, Distt. Bikaner, (Rajasthan)

: Respondents.

Mr. Nitin Trivedi : Counsel for the respondents.

ORDER

Per Mr. J K Kaushik, Judicial Member.

Smt. Prem Kanwar, has filed this O.A under Sec. 19 of the Administrative Tribunals Act, 1985, praying therein for a mandate to the respondents to release the family pension in her favour with effect from 20.11.2003 along with interest. Another prayer was also made for considering her candidature for appointment on compassionate grounds, but the claim for the same has been withdrawn as per the order sheet dated 14.09.2005.

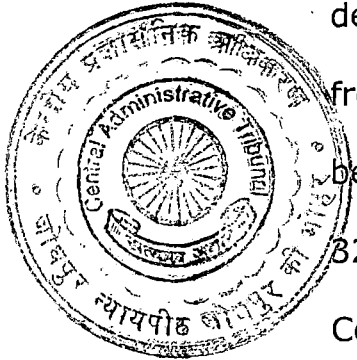
2. With the consent of the learned counsel for both the parties, the case was taken up for final disposal at the stage of admission.

I have accordingly heard the arguments advanced at the bar by the learned counsel for both the parties and have carefully

perused the records as well as the pleadings made in this case.

3. The undisputed material facts of this case are that the applicant is the legally wedded wife of late Shri Hiru Dan Ji. Late Shri Hiru Dan Ji was engaged as a casual labourer in the office of the second respondent vide OM dated 28.11.1989. His name was sponsored by the employment exchange and after due selection, he was appointed as Casual Worker. He was allowed to be paid at the rate of 1/30th of pay in the pay scale of Rs. 750-940 + dearness allowance. He was granted temporary status with effect from 01.09.93 in the pay scale of Rs. 750-940. His pay came to be revised with effect from 01.01.96 in the pay scale of Rs. 2550-3200, as per the recommendations of the 5th Central Pay Commission. He was allowed due increments of pay and as on June 2002, he was drawing Rs. 2900/-. Shri Hiru Dan Ji fell sick and was admitted in S.M.S. Hospital, Jaipur for heart operation on 03.11.2003, where he had expired on 19.11.2003 during operation. The applicant submitted an application on 08.12.2003 for extending the death benefits as well as appointment on compassionate grounds. The same was followed by reminders, but there was no response. Finally, a sum of Rs. 38010/- was paid to the applicant towards D.C.R.G. On 26.08.2004. The Original Application has been filed on numerous grounds mentioned in para 5 and its sub paras which shall be dealt with a little later in this order.

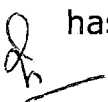
4. The respondents are contesting the case and have filed a detailed and exhaustive reply to the O.A. It has been averred



that the applicant's husband was engaged with certain terms and conditions and it was a purely temporary assignment without conferring any right on the worker to claim regular appointment. The temporary status came to be granted in view of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993- herein after referred to as 'the Scheme of 1993'. It is also averred that Casual Labourer who acquired temporary status will not be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' Posts. Certain paras of 'the Scheme of 1993' have been reproduced. It has been averred that the applicant's husband had never been regularised in Group 'D' posts till his date of death. Therefore the applicant was not entitled to family pension. It has been mentioned that only spouse of the Government servants (sic- Government servants) is entitled to family pension. As the husband of the applicant was granted only temporary status and remained as a casual worker, the applicant is not entitled to family pension as per the Scheme of 1993 referred to above. The grounds raised in the O.A have generally been denied.



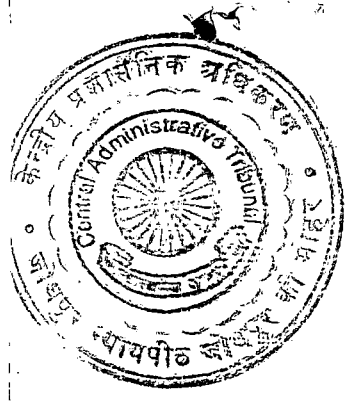
5. Both the learned counsel for the parties have reiterated the facts and grounds mentioned in their respective pleadings. The learned counsel for the applicant had placed reliance on one of the recent judgments of this very Bench of the Tribunal in the case of **Smt. Santosh vs. I.C.A.R. and others.** [2004(3) ATJ 42] and has submitted that in that case also similar controversy has been resolved. He further submitted that the said judgement



13

has been affirmed by the Hon'ble High Court of Rajasthan at Jodhpur and the due benefits of family pension had been given to the applicant therein.

6. On the other hand, the learned counsel for the respondents has made me to traverse through various provisions of the Scheme of 1993 and has submitted that as per the said Scheme, there is no provision for grant of pension or family pension in respect of the casual labourers conferred with temporary status. He has also pointed out that in the case of **Smt. Santosh (supra)** the deceased Government servant has completed 20 years of service. But in the instant case , the applicant's husband has completed only about 14 years of service and therefore the facts of this case are dissimilar to the above cited case and thus the same is of no help to the applicant's case.

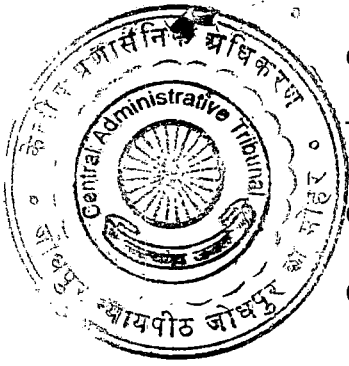


7. I have anxiously considered the rival submissions put forth on behalf of both the parties and have also waded through the decision rendered in the case of **Smt. Santosh (supra)**, in which I was one of the party to the order. I have also carried out close analysis of 'the Scheme of 1993' also. There is no dispute as regards the facts of this case. I find that the decision in case of **Smt Santosh** supra is quite exhaustive covering up multifarious situations. It fully covers up the controversy involved in the instant case. I hasten to add that the concept of normal pension and family pension are distinct and the same have been lucidly discussed by this bench of the Tribunal in case of **Smt Bhiki Vs.**

Union of India & ors Original Application No.23/2004 decided

[Signature]

on dated 18.8.2005. In that case family pension has been held to be admissible to the widow of TS Casual Labour. In another case of **Badri & Others Vs. Union Territory, Chandigarh & ors** 2004 (1) SLJ CAT 204 (para 14), the Coordinate bench of this Tribunal was pleased to direct that the casual labours working for a long time for more than ten years would be entitled for pension by counting the total period rendered by them as daily wages, casual or ad hoc etc. In the present case the deceased government servant had rendered over thirteen years. In any case for grant of family pension only one year service is enough. Thus, I have no reason to take a different view in the matter except to apply the decision in case of Smt Santosh supra and decide this case on similar lines.



8. In view of what has been said and discussed above, I find ample force in this OA and the same stands allowed accordingly. It is declared that the applicant is entitled to grant of the family pension. The respondents are directed to grant family pension to the applicant from the due date and she shall be entitled to all consequential benefits including arrears thereof along with interest @ of 8%. This order shall be complied with within a period of three months from the date of receipt of a copy of the same. No costs.

J K Kaushik
(J K KAUSHIK)
JUDICIAL MEMBER

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