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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application No. 135/2004.

Date of decision: 26.08.2004.

The Hon'ble Mr. J K Kaushik, Judicial Member.

Hon'ble Mr. G.R. Patwardhan, Administrative Member.

Kaushalya Devi widow of Shri Patwari Ram, aged 32 years, r/o village Tatarpur, Dist. Alwar, Patwari Ram ex Mazdoor in the office of Commanding Officer, 375 Coy ASC (Sup) Type C C/o 56 APO

: Applicant.

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

Versus

1. Union of India through the Secretary to the Government Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commanding Officer, 375 Coy ASC (Sup) Type C, C/o 56 APO.
3. D G S&T QMG's Branch, Army Headquarters, Sena Bhawan, New Delhi.

: Respondents.

Mr. Vinit Mathur: Counsel for the respondents.

ORDER

Mr J K Kaushik, Judicial Member.

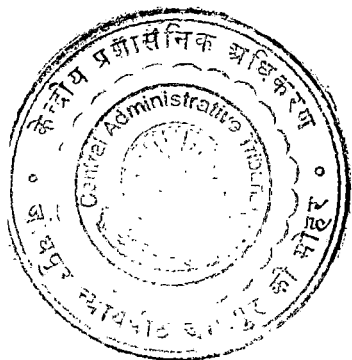
Smt. Kaushalya Devi, has questioned the validity of the order dated 23.02.2004 at Annex. A/1, and has prayed for

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consideration of her case for giving appointment on compassionate grounds.

2. The case was listed for admission and keeping in view the urgency of the matter, we propose to decide the same at the admission stage. Accordingly, we heard the arguments advanced by learned counsel for both parties and have also carefully perused the pleadings as well as the records of this case.

3. The brief facts considered necessary for resolving the controversy involved in this case are that the applicant is the wife of one Shri Patwari Ram. Shri Patwari Ram, was employed as temporary status employee under respondent No. 2 at Bikaner and expired on 12.01.2004, while in service. He was survived with his widow, i.e. the applicant, four daughters and two sons. His all the children are still minors, the eldest child being 16 years of age. The family is in harness and penury position without there being any means of livelihood and there is no earning member; since the complete family was depending on the deceased employee. The applicant submitted an application to the respondents for seeking appointment on compassionate grounds but the same has been turned down primarily on the ground that there is no provision under the Government rules to give employment to the dependent of the



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deceased Government servant who was conferred with temporary status as a casual labour. In para No. 4.8, an averment has been made that in the case of one **Smt. Meema Devi vs. ICAR** (O.A. No. 303/99- decided on 08.12.2000, by this Bench of the Tribunal- Annex. A/2), the respondents therein were directed to consider the case of applicant therein(who is similarly placed like the applicant herein) for giving appointment on compassionate grounds, but the applicant has been denied the same.

4. The respondents have contested the case and have filed a detailed reply to the Original Application. It has been averred that the husband of the applicant was absent without leave and as per the post-mortem report, the cause of death is head injury caused by accident. No service record in respect of the applicant's husband is available since he was only a temporary status labour. The scheme-dated 09.10.98 does not provide for giving appointment on compassionate grounds to persons holding temporary status. The OM dated 07.05.91 is not on record and the same has no application to the instant case. The grounds adduced in the O.A have been generally denied.

5. At the very out set, the learned counsel for the applicant has invited our attention to a very recent judgement of this

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Bench of the Tribunal decided on 31.05.2004 in the case of **Smt. Santosh vs. ICAR & ORS** [2004 (2) ATJ 429], wherein both of us were party to the judgement and has submitted that the controversy involved in the instant case is squarely covered on all force by the said decision. Therefore the issue does not remain res-integra. The learned counsel for the respondents does not have any serious dispute as far as the basic facts and legal aspect of the matter is concerned. He has, however, reiterated the legal pleas, which have already been exhaustively dealt with in the aforesaid decision.

6. We have very carefully perused the decision in the case of **Smt. Santosh** (supra) and find that the controversy is fully covered by the same. In this view of the matter, we find that there is no need of any further discussion in the matter and the said judgement is being treated as part of this order. We have absolutely no hesitation in following the said decision and in deciding this O.A on similar lines.



7. In the premises, the inescapable conclusion is that the Original Application has ample merit and substance and the same stands allowed, accordingly. The impugned order dated 23.02.2004 (Annex. A/1) is hereby quashed. The respondents are hereby directed to consider the case for the applicant for

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appointment on compassionate ground on a post she is eligible as a casual labourer within a period of three months from the date of receipt of a copy of this order. No costs.

(G R Patwardhan)
Administrative Member

(J K Kaushik)
Judicial Member.

Jsv.

Relay
~~Office~~
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Mr.

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