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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Application No. 179/2005

Date of Decision: 23rd January 2006

CORAM:

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

Smt. Kaushalya wife of Late Shri Patwari Ram, Aged 33 years, R/o Village Tatarpur, District Alwar, Late Shri Patwari Ram an Ex. Temporary Status Mazdoor in the office of Commanding Officer, 375, Coy ASC (SUP) Type C, C/O 56 APO.

..Applicant

(Mr. Vijay Mehta, Counsel for the applicant.)

-VERSUS-

1. Union of India, through the secretary to Government, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commanding Officer, 375, COY ASC (Sup) Type C c/o 56 APO.
3. Director General of Supplies & Transport, Quarter Master General's Branch, Army Head Quarters, Sena Bhawan, New Delhi.

..Respondents.

(Mr. Vinit Mathur, Counsel for the respondents.)



ORDER

Mr. J.K. Kaushik, Judicial Member

Smt. Kaushalya has invoked the jurisdiction of the bench of this Tribunal under section 19 of Administrative Tribunal Act wherein she has questioned the validity of impugned order dt. 4.03.2005 (Annex. A/1) and has prayed for quashing the same in addition to seeking a mandate to the respondents to release

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the family pension and other terminal benefits in her favour with interest at the rate of 24% thereof.

2. With the consent of the learned counsel for both the parties, the case was taken up for hearing at the stage of admission, keeping in view a short question involved in this case. The case was heard in piecemeal on three occasions. I have earnestly considered the submissions made at the bar by the learned counsel for contesting parties and also the pleadings and records of this case.



3. The indubitable facts leading to filing of this Original Application are that the applicant is wife of late Shri Patwari Ram. Shri Patwari Ram was appointed on the post of Mazdoor on 1.10.1993 at Bikaner in the office of respondent no. 2. He was given temporary status w.e.f. 10.9.1996. Shri Patwari Ram expired on 12.01.2004 in harness. The applicant has claimed for family pension and other terminal benefits but her request came to be turned vide impugned order dt. 04.03.2005 on the ground that the deceased Govt. servant was a temporary status employee and no pensionary benefits are admissible to the widow of such employee.

4. The Original Application has been filed on number of grounds. It has been indicated that in similar circumstances this Bench of the Tribunal has allowed the Original Application NO.



291/2003 in respect of one Smt. Santosh vide judgment at Annex. A/3 and the same has been affirmed by the Hon'ble High Court of Rajasthan vide Annex. A/4. The applicant is a similarly circumstanced person and as such, she is entitled to same treatment.

5. As regards the variances in the facts, it has been averred in the reply that the deceased Govt. servant was neither holder of G.P.F account nor he made any contribution towards General Provident Fund. He was a temporary status employee and as per rules, no pensionary benefits are admissible to such employees. The case of the applicant cannot be compared with that of Smt. Santosh since the husband of the Smt. Santosh had rendered 20 years of service whereas in the instant case, the husband of the applicant had worked only for about 10 years. Therefore, the applicant is not a similarly situated person so as to get any benefit from the judgment on which the applicant has placed reliance.

6. The learned counsel for the applicant has reiterated the facts and grounds mentioned in the Original Application. He has placed heavy stress on the judgment in case of **Smt. Santosh vs. ICAR and Another, 2004 (3) ATJ, P-92** and submitted that the controversy involved in the instant case is squarely covered on all fours and the Original Application deserves to be accepted on the similar lines. Per contra, the learned counsel for

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the respondents has reiterated the grounds of defence as set out in the reply as noticed above. He has emphasized that the husband of the applicant has rendered only 10 years of service but in case of Smt. Santosh, her husband rendered about 20 years of service. Therefore the facts of the case of Smt. Santosh are dissimilar from the facts of the instant case and as such, the controversy cannot be said to be covered by the judgment in **Smt. Santosh** (supra).

7. I have considered the rival submissions put forth on behalf of both the parties. Firstly the ground taken by respondents that applicant's husband was not holder of G.P.F account, does not sound well from the side of the model employer like the respondents inasmuch as the very scheme of grant of temporary status 1993 prescribes that after rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident. Law on this point is quite clear that in case the employer fails to deduct the G.P.F. amount, the liability to pay amount shall be on the employer itself. The relevant portion of scheme is reproduced as under:

"5. Temporary status would entitle the casual labourers to the following benefits: -

(i) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to temporary Group 'D' employees,

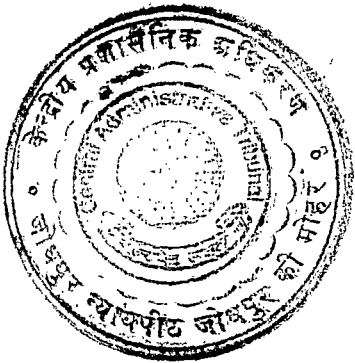
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provided they furnish two sureties from permanent Government servants of their Department."

8. As regards the dissimilarity of the facts of this case with that of **Smt Santosh** supra, on the point that the applicant's husband had rendered only 10 years of service and not 20 years as in case of Smt Santosh supra, I take judicial notice of a recent decision of this very Bench of the Tribunal in case of Original Application No. 318/2004 **Smt. Prem Kanwar vs. Secretary, ICAR and others** decided on 14.09.2005. The contents of Para 7 of the same is the complete answer to the same and the same reads as under:

"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 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."




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In this view, I am refraining from discussing the same afresh. I can only assert at this juncture that I have absolutely no hesitation in following the aforesaid decisions and deciding this O.A. on the similar lines.

9. In view of what has been said and discussed above, I find ample force in this OA and the same stands allowed accordingly. The impugned order dated 4.3.2005 (Annexure A/1) is hereby quashed. The respondents are directed to grant family pension and other retrial benefits to the applicant from the due date and she shall also be entitled to all consequential benefits including arrears thereof along with interest @ 8% p.a. from the due date till the date of payment. 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)
JUDICIAL MEMBER

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Part II a. 1 III destroyed
in my presence on 3/6/14
under the supervision of
section officer () as per
order dated 3/11/2014

[Signature]
Section officer (Record)

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