

19

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.12/2011
with
Misc. Application No.20/2011

Date of decision:05.03.2012

**HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER,
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

Smt. Sushila W/o Late Shri Deepa Ram, aged about 40 years, by caste Kharwal, R/o VPO Salariya Jhupa via Jawali, District Pali. Husband was working as Casual Labour under respondent No.6.

: Applicant

Mr. Mahipal Rajpurohit, counsel for applicant.

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Tele Communication (P&T Board), Sanchar Bhawan, New Delhi.
2. The Director, Department of Tele Communication, Sanchar Bhawan, New Delhi.
3. The Chief General Manager, Department of Tele Communications, Jaipur.
4. The General Manager, Office of Telecom, Department of Tele Communication, Pali Marwar.
5. The Divisional Engg. (Admn.) through the District Manager, Office of Telecom, Department of Tele Communications, Pali Marwar.
6. The Sub Divisional Officer (SDO) Telegraphs, Office of Telecom, Department of Tele Communication, Pali.

.....Respondents

**Mr. Kuldeep Mathur, counsel for respondents No. 1 to 3.
Mr. Lalit Vyas, proxy counsel for
Mr. V.D.Vyas, counsel for respondents No.4 to 6.**

✓



ORDER (ORAL)
Per Dr. K.B.S. Rajan, Judicial Member

The applicant has approached this Tribunal seeking the following reliefs:-

- "(a) That the present application may kindly be allowed and accepted with costs.
- (b) That by an appropriate order or direction, the respondent authorities may kindly be directed to comply with the previous orders of this Hon'ble Court and there by directed to give joining to the present applicant, on place of her deceased husband.
- (c) That other appropriate relief, which this Hon'ble Tribunal found just and proper as per the facts and circumstances of the present case, may also kindly be allowed in favour of the present applicant."

2. The brief facts of the case are that the applicant's husband had served 433 days of casual service some time during 1985-1986. In pursuance of order of the Hon'ble Principal Bench vide Annexure-A/6, a Scheme was to be formulated in regard to regularization. Since services of the husband of the applicant, late Shri Deepa Ram, were not regularized, he had approached the Tribunal in O.A. No.684/2008, which was decided on 05.07.1993 with a direction to the respondents to inquire into the matter as to whether the applicant was really sick and if he was sick, after taking fitness certificate, whether he reported or not for duty and if he reported back for duty then he should have been taken on duty. The respondents have conducted the enquiry and arrived at a conclusion vide Annexure-A/8, dated 17.02.1997, that as it could not be established that Shri Deepa Ram was actually sick during the relevant period, it was ordered that he could not be taken on duty. This was received by said Shri Deepa Ram at the

[Handwritten signature]

relevant point time. He had not challenged the same. Shri Deepa Ram died in the year 2001 and as late in the year 2009 the applicant has issued a legal notice to the respondents for seeking compassionate appointment. As there was no favourable order from the respondents, the applicant has approached this Tribunal with above reliefs.

3. The respondents have contested that they have clearly stated in the reply that the applicant cannot be considered for compassionate appointment as the husband of the applicant, the deceased Deepa Ram was not a regular employee.

4. The applicant has filed rejoinder in which she has contended that the order dated 17.02.1997 referred to above was never received by her husband and she ^{was} served with a copy.

5. Counsel for the applicant argued the case based on above said pleadings.

6. Counsel for the respondents invited our attention to paragraph 4(VIII) of the O.A., wherein there is a clear admission that it is also informed to the husband of the present applicant vide order dated 17.02.1997 that he could not produce the documentary evidence regarding his sickness or treatment for the relevant period from 1986 to 1988.

7. We have considered the rival contentions. The question of compassionate appointment arises only in respect of the family

Y S

member of a regular employee, who died in harness. In this case, as, admittedly, the applicant's husband was not in regular employment, the applicant is not eligible for applying for compassionate appointment, and accordingly we do not find any legal lacunae in the decision of the respondents in rejecting the claim of the applicant for compassionate appointment. Accordingly the O.A. as well as M.A.No.20/2011 for condonation of delay is dismissed. No order as to costs.



[Sudhir Kumar]
Administrative Member

rss



[Dr. K.B.S. Rajan]
Judicial Member

PL 12
S. 2
12/3

Final copy
for J. D. B.
(2/3/12)