

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.478/2012

Jodhpur this the 13th day of December, 2013

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J),

Hon'ble Ms. Meenakshi Hooja, Member (A)

Smt. Manju Devi W/o late Shri Swaroop Harijan, aged about 42 years, Tejaji Ka Chowk, Ram Krishan Nagar, Harijan Basti, Bhilwara, her late husband was employed on the post of Group D Safaiwala in Head Post Office, Bhilwara.

.....Applicant

Mr. J.K.Mishra, Advocate, present for applicant.

Versus

1. Union of India through Secretary to the Government of India, Ministry of Communication and Info Tech, Department of Post, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur-302007.
3. Post Master General, Rajasthan Southern Region, Ajmer
4. Superintendent of Post Offices, Bhilwara Division, Bhilwara.

.....Respondents

Smt. K. Parveen, Advocate, present, for respondents.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 for seeking the following reliefs:-

- (i) *That the impugned order dated 29.05.2012 (Annexure-A/1), issued by the office of 3rd respondent may be declared illegal and the same may be quashed. The respondents may be directed to reconsider the candidature of the applicant for compassionate appointment as per the rule/instructions and the ratio of judgment passed in the case of Smt. Chitra Babu (A/1), supra, as per rules in force and allow all consequential benefits.*
- (ii) *That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.*
- (iii) *That the costs of this application may be awarded."*

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2. The short facts of the case as averred by the applicant are that the applicant, Smt. Manju Devi, is the legally wedded wife of Shri Ram Swaroop Channal, who served in the postal department. He was 9th pass and belonged to SC category. The deceased government servant Shri Ram Swaroop was confirmed temporary status as Group D employee w.e.f. 01.01.1996 and thereafter he was confirmed on the post of Safaiwala in Group D cadre w.e.f. 01.01.1999. The husband of the applicant, died on 03.04.2011 due to cancer while in service as Group D Safaiwala at Bhilwara HO. The deceased government servant was survived with a large dependent family consisting of widow i.e. applicant, one minor son and three unmarried daughters. After the death of her husband, the applicant submitted a detailed application dated 03.05.2011 along with ancillary documents, and affidavits as per the norms for grant of appointment on compassionate grounds. When no communication was received from the respondents then the applicant sent reminders and took up the matter to the 2nd respondent. But none of representations were replied. Thereafter, the applicant resorted to seek information under RTI and the same has been provided to her vide letter dated 29.05.2012 and in which it has been said that the husband of the applicant was only a Temporary Status holder and not regular, so compassionate appointment cannot be given on regular post. It has been further averred in the OA that a Temporary Status casual employee is entitled on completion of three years service, to all benefits as admissible to a regular group D employee including grant of

appointment on compassionate grounds. But the respondent department denied the compassionate appointment to the applicant. Hence, the applicant by way of application has sought the relief as mentioned in para No.1.

3. By way of reply, the respondent department averred that late Shri Ram Swaroop Harijay was engaged to work as contingent paid Safaiwala and no formal order for his engagement was issued by the office. It has been further averred that the applicant's husband was treated at par with the temporary employees of Group D after rendering 3 years continuous service with temporary status and benefits of that were extended to him. It has been further averred that the husband of the applicant was not appointed/regularized in Group 'D' (Now MTS) cadre till his death i.e. up to 03.04.2011 because no vacancy was available for recruitment from open market. Since the husband of the applicant was working as temporary status Group D till his death, no dependents are eligible for compassionate appointment as per DG Posts, New Delhi letter dated 21.10.1998, and as such the representation made by the applicant on 03.05.2011 could not be considered in her favour. Hence, the respondents prayed to dismiss the OA.

4. Applicant has also filed the rejoinder and while reiterating the same facts, has annexed the judgment of the Hon'ble Allahabad High Court passed in Civil Misc. Writ Petition No.5757/2007 (Union of India & Ors. v. Smt. Chandra Prabha Jain and Ors.), as Annexure-A/11.

5. The respondent department has filed additional affidavit and denied the facts and averments made by the applicant in rejoinder.


6. Heard both the parties. Counsel for the applicant contended that Division Bench of Central Administrative Tribunal, Ernakulam Bench in OA No.999/2011 (*Smt. Chitra Babu v. Union of India & Ors*) decided on 14.08.2012, held that where the applicant's husband having been conferred with the status of temporary Group D employee becomes entitled to all the benefits available to Group D employee on regular basis. Therefore, the counsel for the applicant contended that in view of that judgment the respondent department may be directed to consider the candidature of the applicant for appointment on compassionate grounds. He further relied upon the judgment of the Hon'ble Allahabad High Court passed in Civil Misc. Writ Petition No.5757/2007 (*Union of India & Ors. v. Smt. Chandra Prabha Jain & Ors.*). Counsel for the applicant further relied upon the Annexure-A/7 by which the applicant's husband was confirmed in the cadre of Safaiwala w.e.f. 01.01.1999 having completed probation period with satisfactory services.

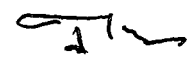
7. Per contra, counsel for the respondents contended that the judgment of the Hon'ble Allahabad High Court passed in Civil Misc. Writ Petition No.5757/2007 (*Union of India & Ors. v. Smt. Chandra Prabha Jain & Ors.*), is not applicable in the present case. She further contended that as the husband of the applicant was not a permanent employee and was not working on regular Group D post

because he was conferred only the temporary status as Group D employee w.e.f. 01.01.1996 and was extended the benefits as per the Scheme of Regularization of Casual Labour vide letter dated 30.11.1992 and as he was not regularized in Group D post till his death, therefore, the applicant is not entitled to get any benefit. It contended in sum that as the husband of the applicant was a Temporary Status holder and not regular employee, therefore compassionate appointment cannot be given to the applicant.

8. We have considered the rival contentions of both the parties and also perused the relevant record. In the light of the submissions made by both the parties and in the light of the judgment delivered by the Division Bench of the Central Administrative Tribunal, Ernakulam Bench at Annexure-A/10, we are intending to dispose of this application with certain directions.

9. The application is disposed of with a direction to the respondent department to consider the candidature of the applicant in the light of the judgment of the Central Administrative Tribunal, Ernakulam Bench, passed in OA No.999/2011 (Smt. Chitra Babu v. Union of India & Ors.), decided on 14.08.2012 and if the facts and circumstances of that judgment are applicable in the present case then they will consider and inform the applicant of the decision within four months from the date of receipt of a copy of this order. No order as to costs.


(Meenakshi Hooja)
Administrative Member


(Justice K.C. Joshi)
Judicial Member