

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

**Original Application No.290/00024/2014  
with  
Misc. Application No.290/00014/2014**

Jodhpur, this the 20<sup>th</sup> day of May, 2016

Reserved on 10.05.2016

**CORAM**

**Hon'ble Ms. Praveen Mahajan, Administrative Member**

Smt. Sushila W/o late Shri Deepa Ram, aged about 43 years, B/c Kharwal, R/o VPO Salariya Jhupa via Jawali, District Pali.

.....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. K.S. Yadav, counsel for respondents No.1, 5 &6.  
Mr. Lalit Vyas, counsel for respondents No.2 to 4.

**ORDER**

The present OA has been filed by the applicant under Section 19 of the

- "(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 release all the legal and just dues, mentioned in this OA, to the applicant.*
- (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 kindly be allowed in favour of the present applicant."*

2. It has been averred by the applicant that her husband, late Shri Deepa Ram, was appointed as Casual Labour vide order dated 18.03.1985 of the SDO Telegraphs Pali. He continuously worked under the respondent department from 18.03.1985 to 04.08.1986 which comes to more than five hundred days. However, the certificate of working of late Shri Deepa Ram issued by SDO Telegraphs Pali on 22.01.1986 is only for 433 days. It has been further averred that the deceased fell sick in the year 1986 due to which he went under treatment from 05.08.1986 to 24.06.1988. After recovery from the sickness the husband of the applicant moved an application dated 25.06.1988 for joining back on duty to the Division Engineer Telegraph Pali along with sickness certificate and health fitness certificate. But the concerned authority denied to take back the husband of the applicant on duty. Being aggrieved by inaction and non-cooperation of the concerning authorities, the husband of the applicant preferred an OA 684/2008 before this Hon'ble Tribunal for redressal of his grievances. He averred that as per the order dated 01.10.1984, the Government of India (Ministry of Communication), decided that the casual Mazdoors who serve the Department for at least a total period of 240 days in a year and whose services are proposed to be terminated by the Department, shall be served a notice of one month before termination of their service or one month wages in lieu thereof be paid to them. In reply, the respondent department opposed the

receive any benefit/ relief in the earlier OA. After hearing both the parties the Hon'ble Tribunal passed an order dated 05.07.1993 and directed the respondents to inquire into the matter and complete the inquiry within six months and act accordingly. It has been averred that the respondents did not fairly and impartially inquire into the matter within the stipulated time frame of 6 months, as directed by this Tribunal. It has been further submitted that due to death of Mr. Deepa Ram on 02.12.2001, the present applicant comes under unnecessary mental harassment and financial loss. After recovering from her husband's death and after performing liabilities of her young daughter, the applicant approached the concerned authorities vide application dated 18.03.2005. Thereafter the applicant sent a legal notice through her counsel on 16.12.2009 for redressal of her grievance. But the respondent authorities neither replied nor took any step for redressal of grievance of the present applicant. Aggrieved by the inaction and non-cooperation of the concerning authorities, she filed another OA No.12/2011 in which the Hon'ble Tribunal after hearing arguments from both sides, passed the order dated 05.03.2012 (Annexure-A/1) whereby this Tribunal dismissed the OA as well as MA for condonation of delay on the ground/ reasoning that as the applicant's husband was not in regular employment hence the applicant is not eligible for compassionate appointment. That order was challenged by the applicant before the Hon'ble Rajasthan High Court in a DB Civil Writ Petition No.6127/2012 and the Hon'ble High Court also dismissed the aforesaid petition vide order dated 07.12.2012 (Annexure-A/2). At the same time, the Hon'ble High Court held that if the present applicant/petitioner wants to make



due to aforesaid facts and circumstances as well as liberty granted by the Hon'ble Rajasthan High Court, Jodhpur the applicant once again has approached this Tribunal by way of the instant OA. The applicant has also filed a Misc. Application for condonation of delay.

3. In reply the respondent department submitted that it is not correct to say that Late Shri Deepa Ram continuously worked from 18.03.1985 to 04.08.1986 for a total period of more than 500 days and that SDOT Pali wrongly issued working certificate of 433 days. Respondents state that the husband of the applicant left the employment after 04.08.1986 at his own. He remained absent without any information. The medical certificates submitted by him after 2 years were not found to be genuine. It has been further averred that as per the directions of the Hon'ble Tribunal in OA No.684/1988, the matter was fairly and properly inquired into, after giving reasonable opportunity to the husband of the applicant to produce documentary evidence with regard to his sickness w.e.f. 05.08.1986 to 24.06.1988. It was held, that the fact of sickness of the husband of the applicant was not established. It has been further averred that while rejecting the previous OA No.12/2011, this Hon'ble Tribunal has observed that "Question of compassionate appointment arises in respect of the family member of a regular employee, who dies 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 OA as well as MA No.20/2011 for condonation of delay is

applicant Late Shri Deepa Ram was not in regular appointment and hence the applicant is not entitled to any relief as claimed for.

4. Heard both sides, and, perused the record. Counsel for the applicant submits that even though the husband of the applicant was not in regular appointment, but the applicant is entitled for family pension and other dues. In support of this, he has relied upon the judgment of Hon'ble Delhi High Court in UOI & Anr. V. Jaywanti Devi and the judgment of Hon'ble Gujrat High Court in the case of Rukhiben v. UOI, in which, while considering the findings given by the Hon'ble Apex Court as well as other Hon'ble Judicial Courts and Tribunals, it was held that the widows of the casual employees/labours, having temporary status are entitled for family pension.

5. On the contrary, counsel for the respondents submits that since the husband of the applicant was only a casual labour and not a regular employee of the respondent department therefore, the applicant is not entitled for any family pension or other dues. He further contended that the applicant has filed the instant application after a long period of 20 years. There is no reasonable cause for condonation of such a long period of delay, as no satisfactory ground has been mentioned for condoning the delay in the application.

6. I have considered the rival contentions of both the parties. It is an admitted position that the husband of the applicant was not a regular employee of the respondent department. **Further, the judgment cited by the learned counsel for the applicant is also not applicable in the present case, because in the instant case the husband of the applicant was simply a casual labour**

been shown by the applicant for the inordinate delay in approaching the Court hence, even on count of limitation the OA is liable to be dismissed. Hence on account of merit and limitation, the OA & MA are dismissed with no order as to costs.

  
[Praveen Mahajan]  
Administrative Member

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