

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

Original Application No. 27 of 2010

This the day of 01st March, 2017

Hon'ble Mr. Justice V.C. Gupta, Judicial Member

Smt. Usha, wife of Jangali aged about 45 years, resident of Village – Tapar Purwa, Post Office – Pratappur, Block – Phool Behar, District – Lakhimpur Kheri.

....Applicant

By Advocate : None

Versus

1. Union of India, through its Secretary, Ministry of Agriculture, Krishi Bhawan, New Delhi.
2. Director, Central Cattle Breeding Farm, Andesh Nagar, Lakhimpur Kheri (U.P)

...Respondents

By Advocate: Sri Jitendra Kumar for Sri K.K. Shukla

ORDER (Oral)

Per Hon'ble Mr. Justice V.C. Gupta, JM:

List has been revised. None appeared on behalf of the applicant. In view of the order dated 23.02.2017 it is evident that incase any adjournment is sought by either of the parties on the next date, the case shall proceed under Rule 15/16 of CAT (Procedure) Rules, 1987, as the case may be.

Proxy counsel Sri Jitendra Kumar for Sri K.K. Shukla, Ld. Counsel for respondents.

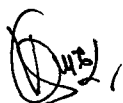
Heard counsel for the respondents and perused the records.



2. This case is pending since 2010. Hence, in view of the order dated 23.02.2017 this Tribunal is of the view that the case must proceed under Rule 15 of CAT (Procedure) Rules, 1987 so the case may be decided on the basis of material available on records and after hearing of counsel for the respondents.
3. The applicant filed this original application under Section 19 of AT Act, 1985 seeking the following relief(s):-

- “(a) That in the interest of justice the impugned order dated 5.6.2009 passed by opp. Party no. 2 may be quashed.***
- (b) That in the interest of justice the opposite parties may be directed to allow the applicant for work of fourth class employee in place of her husband Late Jangali on the sympathetical ground.***
- (c) Any other suitable order or directions which this Hon’ble Court may deem fit just and proper in the circumstances of the case may also be passed in favour of the applicant.***
- (d) Cost of the petition is also awarded to the applicant against the opposite parties.***

4. The facts giving rise of this petition are that the husband of the applicant (Smt. Usha) was inducted as a casual labour with the respondent no. 2. He latter on grant temporary status. When he was working as casual labour having temporary status he passed away on 13.07.2000. The applicant applied for compassionate appointment. After death the amount deducted as GPF contribution was paid to the applicant but compassionate appointment was not granted. According to her, she made several representation and reminders but the respondents had not paid any heed. Consequently, the applicant filed an original application no. 174/2009 which was decided on 01.05.2009. A direction was issued to consider and dispose of the pending representations of the applicant by passing a reasoned and speaking order. In pursuance thereof the impugned order dated 05.06.2009 was passed which is reads as under:-



"Govt. of India
Ministry of Agriculture
Dept. of A.H., Dairying & Fisheries

No. E-116/2009-10/1688

Office of the Director
Central Cattle Breeding Farm
Andeshnagar, Lakhimpur-Kheri.
(UP) 262701
Date-5.6.09

OFFICE ORDER

In the order and judgment passed by the Hon'ble Central Administrative Tribunal, Lucknow Bench, Lucknow dated 1.5.2009 in O.A. No. 174/2009 filed by Smt. Usha, W/o Late Shri Jangli, Temporary Status Worker, Central Cattle Breeding Farm, Aadeshnagar, Lakhimpur-Kheri, U.P. V/s Union of India & Others, the court had directed the respondents to consider and dispose of the representations of the applicant by passing a reasoned and speaking order in accordance with law within a period of two months from the date of supply of a copy of this order.

In compliance of the order and judgment passed by the Hon'ble Central Administrative Tribunal, Lucknow Bench, Lucknow, the representation sent by you dated 29.7.200 along with subsequent reminders dated 14.9.2002, 16.7.2002, 24.11.2003, 20.01.2005, 15.02.2006, 18.7.2007 and 22.12.2008 has been considered by the respondents. It has been noted that:-

The applications moved by you i.e. Smt. Usha, W/o Late Shri Jangli, Temporary Status Worker, to various authorities have been duly considered by the department and decision of the Govt. have already been conveyed to you vide Ministry's letter No. 4-3/2002/Adm.III dated 31.5.2002 (Copy enclosed)

Once again it is again conveyed that your request for compassionate appointment cannot be acceded to because casual labours with temporary status are not eligible for appointment on compassionate grounds.

(Dr. V.K. Patil)
Director,
CCBF, Andeshnagar, Lakhimpur-Kheri, U.P.

To,

Smt. Usha
W/o Late Shri Jungli
Village- Taparpurwa, Post – Pratappur
Dist. Lakhimpur-Kheri, U.P."

5. While deciding all the representations in pursuance of order passed by this Tribunal in OA 174/2009, it has been informed that application moved by Smt. Usha wife of Jangali temporary status worker was duly considered by the department and as per decision of the government of India, Ministries letter dated 31.05.2002, copy of which enclosed that the request for compassionate appointment cannot be acceded to because dependents of casual labour with temporary status are not eligible to grant compassionate appointment. Aggrieved by the impugned order present original application was filed.



6. The counter affidavit has been filed by the respondents wherein the order was supported by saying that dependents of casual labour with temporary status are not entitled for compassionate appointment. It was further contended that the applicant's husband was engaged as casual labour and thereafter he was granted temporary status but he has never been appointed against any post in the department.

7. The facts pleaded in the counter affidavit have not been countered by filing any replication by the applicant. The order which has been communicated to the applicant in year 2002 and again alongwith order impugned has also been annexed with the counter affidavit as Annexure CR-1 which reads as under:-

"मिसिल संख्या 4-3/2002-प्रशासन-3
भारत सरकार
कृषि मंत्रालय
पशुपालन एवं डेयरी विभाग

कृषि भवन, नई दिल्ली-110001
दिनांक 31 मई 2002

सेवा में,

श्रीमती ऊषा,
पत्नी स्वर्गीय श्री जंगली,
गांव- तापरपुरवा,
पोस्ट- प्रतापपुर
विकास क्षेत्र फूलबेहड़,
तहसील लखीमपुर जनपद खीरी।
उत्तर प्रदेश।

विषय: अनुकम्पा आधार पर दैनिक मजदूर के रूप में नियुक्ति के लिए अनुरोध।

महोदया,

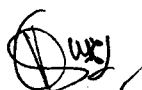
मुझे अनुकम्पा आधार नियुक्ति के संबंध में माननीय प्रधान मंत्री को संबोधित दिनांक 4.3.2002 के आपके पत्र का संदर्भ लेने का निदेश हुआ है। दैनिक मजदूरों के लिए अनुकम्पा नियुक्ति का कोई प्रावधान नहीं है। अतः आपके अनुरोध पर विचार करना संभव नहीं हो सकेगा।

(राधा मणि)
अवर सचिव, भारत सरकार

प्रतिलिपि:

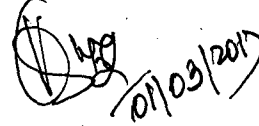
निदेशक, केन्द्रीय गोपशु प्रजनन फार्म, अन्देश नगर (उत्तर प्रदेश)"

8. The order dated 31.05.2002 made it clear that daily wagers are not entitled the facility of compassionate appointment. Hence, her request cannot be considered. After communication of this order to the applicant, she made several representations for re-consideration which was also decided.



9. Nothing has been brought on record to demonstrate that the dependents of casual labour with temporary status are entitled for grant of compassionate appointment.

10. Hence, in view of the above, this petition lacks merit and accordingly dismissed. There shall be no order as to cost.



(Justice V.C. Gupta)
Judicial Member

JNS/-