

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:1092/93

DATE OF DECISION: 29<sup>th</sup> March 2000

Smt. S.Radhakrishnan Applicant.

Shri S.V.Marne for Shri D.V.Gangal Advocate for  
Applicant.

Versus

Union of India and others Respondents.

Shri V.S.Masurkar Advocate for  
Respondents

CORAM

Hon'ble Shri S.L.Jain, Member(J)

(1) To be referred to the Reporter or not? *yes*

(2) Whether it needs to be circulated to other Benches of the Tribunal? *No.*

(3) Library.

*yes*

*S.L. Jain*  
(S.L. Jain)  
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:1092/93

the 29<sup>th</sup> day of March 2000

CORAM: Hon'ble Shri S.L.Jain, Member (J).

Smt. Selvambal Radhakrishnan  
Working under Permanent Way  
Inspector, Jasai,  
Dist. Raigad.

...Applicant.

By Advocate Shri S.V.Marne for Shri D.V.Gangal.

V/s

1. Union of India through  
The General Manager,  
Central Railway.  
Bombay V.T.

2. The Dy. Chief Engineer  
(Construction)  
Central Railway  
Dadar.

...Respondents

By Advocate Shri V.S.Masurkar.

O R D E R

{Per Shri S.L.Jain, Member(J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985, seeking the relief of declaration that the applicant is entitled to be treated as Temporary status employee from the date of her re-appointment and to treat the break in service as continuous service without salary.

2. At the commencement of the hearing the learned counsel for the applicant stated that he does not want to press the relief of treating the break in service as continuous service without salary.

3. The applicant who is the widow of Shri Radhakrishnan filed an OA 1099/92 for compassionate appointment against the respondents which was decided by this Tribunal vide order dated 30.11.1992, with a direction that the competent authority should

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pass the order within shortest possible time and in no case not later than 2 months from the date of receipt of copy of this order. After the said order the applicant was appointed on compassionate ground in Casual capacity as Khalasi on daily rated pay as per extant rules in force and posted to work under PW I(C), Jasai from immediate effect from 20.7.1993.

4. The applicant claims that she was appointed as Casual labourer on 3.4.1983 and was granted temporary status on 3.10.1983. Her services were terminated, represented the matter by representation dated 18.7.1992, 13.8.1992, 4.9.1992, 8.10.1992 and then filed OA OA 1099/92 which was decided on 30.11.1992. She claims that as she was appointed as casual labourer on 3.4.1983 and again on 20.7.1993, she is entitled to temporary status which is denied to her. She was monthly rated casual labourer and she is claiming the benefit of temporary status it is nothing but restoring her to same status which she was occupying earlier to her termination of service. Hence this OA for the above said relief.

5. The respondents have resisted the claim and alleged that as she was appointed as fresh face in casual capacity on her request on compassionate ground, her case was considered and in view of Railway board letter dated 31.12.1986, was engaged as casual labourer, fresh face. IREM para 2004(e) which is relied upon by the applicant is not applicable in this case. The applicant was never granted temporary status, she was in fact granted monthly rated casual labourer, just say that 1/30th of the monthly wages in terms of Railway Boards letter dated 12.6.1974 (R-2). The Scheme for grant of temporary status came into force after 11.9.1986. The provisions relied upon by the applicant are

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applicable, in case of re-appointment in ordinary course when productivity work is available. In her case appointment is made on compassionate ground which is in accordance with the Railway Board's letter dated 31.12.1986. Hence prayed for dismissal of OA alongwith costs.

6. Annexure A 1 is the appointment order of the applicant which as below:

Office Order No. 41/1993.

In view of CE's sanctioned conveyed vide CPO (E/C) BB letter No. HPB/786/RE dated 15.7.1993 Smt. Selvambal Radhakrishnan widow of late Radhakrishnan Ramaswamy, Ex. Temporary status khalasi under PWI(C) Panvel is appointed on compassionate ground, purely in Casual capacity as Reja (Khalasai) as a fresh fece, on daily rate of pay as per extant rules in force, and posted to work under PW I (C)Jasai with immediate effect.

On perusal of the same it is clear that the applicant was appointed on compassionate ground purely on casual capacity as Reja (Khalasi) as fresh face on daily rated employee as per extant rules inforce. The learned counsel for the applicant argued that the respondents have admitted in para 5 of the written statement that she was in fact granted monthly rated casual labourer just say 1/30th monthly rated casual labourer in terms of Railway Board letter dated 10.6.1974. On the said basis it is argued that the applicant is claiming the same status which she was enjoying earlier to her termination from service.

7. Para 2005(e) IREM which is relied on by the counsel for the applicant is as under:

(e) Casual labour engaged on works, who attain temporary status on completion of 120 days continuous employment

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on the same type of work, should be treated as temporary employees for the purpose of hospital leave in terms of Rule 554-R-I(1985 Edition).

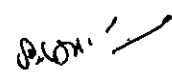
A casual labour who has attained temporary status and has been paid regular scale of pay, when re-engaged, after having been discharged earlier on completion of work or for non-availability of further productive work, may be started on the pay last drawn by him. (This shall be effective from 2nd October, 1980)

8. On the basis of the said provision the learned counsel for the applicant argued that as the applicant was re-engaged, she is entitled to the benefits there under. It is true that the applicant has been re-engaged, but not on the basis of availability of work but on account of compassionate ground which was ordered to be considered in view of the order in OA 1099/92 decided on 30.11.1992. Hence the applicant's case is not covered under IREM 2005(e).

9. Grant of temporary status in the year 1983 on 3.10.1983 cannot be a ground for the reason that such a scheme was not in existence at that time.

10. The appointment on 20.7.1993 cannot be treated to be in continuation of her earlier appointment dated 3.4.1983 and termination of service. (the date not mentioned in the OA).

10. In the result I do not find any merit in the OA. It deserves to be dismissed and is dismissed accordingly with no order as to costs.

  
(S.L.Jain)  
Member(J)