

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A. No. 1134 of 1997

Date of Decision: 22.12.1997

Between:

Smt. D. Vijaya Pushpa Leela

Applicant

AND

1. The Chief General Manager,
Telecommunications, A.P. Circle,
Hyderabad.

2. The General Manager,
Telecommunications,
Vijayawada

Respondents.

Counsel for the applicant: Mr. V. Venkateswar Rao

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMN.)

ORDER

(Per Hon'ble Sri H. Rajendra Prasad: Member (Admn.)

Heard Mr. V. Venkateswar Rao for the applicant and
Mr. N.R. Devaraj for the Respondents.

2. The applicant is the widow of late D. Venkateswar Rao who was a physically handicapped candidate and appointed as PCO attendant in 1984. The applicant's husband, along with 9 other similarly-placed applicants, had approached this Tribunal (OA 181/1991) for a direction to the Respondents to absorb them as regular staff in the Department. While disposing of the OA on 26.9.1991, the respondents were directed to absorb the applicants therein on regular basis in accordance with the scheme, if there was one in existence. If, however, there

were no such scheme, the respondents were asked to prepare a suitable scheme to absorb physically-handicapped Public Telephone Attendants. Subsequently, the Department submitted that they had decided to treat such candidates as casual labourers and to confer on them the benefits of temporary status followed by regular absorption as per the existing scheme ^{in respect of casual labour} and to call for their options for appointment on casual basis and, on exercise of such options, they would be treated on par with other casual labourers for the purpose of payment of wages. It was stated that those who might fulfil the service criterion of one year as casual labourer would also be considered for grant of temporary status. The Department maintained at that stage that they would consider the applications for grant of temporary status only after completion of one year from the date of exercising options to come under the scheme of casual labourers. The Tribunal, however, took the view that in considering the cases of applicants for grant of temporary status the Respondents shall take into consideration the total continuous service rendered by the applicant from the date of their initial casual engagement (Judgment Dt.1.2.1995 in O.A. 197 and batch of cases.)

3. The husband of the applicant, initially engaged in 1984, however passed away on 20th November, 1993, viz. before any options were or could be called, and before the scheme, could be implemented. Thereupon, the applicant submitted a representation to Respondent-1 to consider her case for a suitable compassionate appointment on the basis that her husband had in any case been duly working for several years as casual labourer even prior to the implementation of the scheme ^{(as} ^{by the Respondents themselves} decided upon in respect of such employees) and that he would

there have been eligible, had death not overtaken him, or at least deemed to have become eligible, for temporary status because of his untimely demise. This request was turned down by the authorities whereupon the applicant filed a fresh O. A. No.288/97) praying for a direction to the Respondents to grant her compassionate appointment on the same ground as noted above. The OA was disposed of on 13.3.1997 with a direction that a compassionate appointment should be considered in accordance with the relevant rules, provided that the directions issued in OA 187/97 supra, ^{had} been duly complied with, irrespective of the fact that the husband of the applicant had died earlier to the implementation of the judgment, and even if the applicant's representation was submitted subsequently. The respondents accordingly disposed of the representation (Annexure-8) by rejecting the request of the applicant for a compassionate appointment. And this is the impugned order in the present O.A.

4. The stand of the authorities in this case is that only the families of casual labourers with temporary status are eligible to be considered for appointment on compassionate grounds. Since the applicant's husband expired prior to the grant of temporary status to him, or even prior to the calling of options, the question of compassionate appointment to the applicant, first by absorbing him as casual labour, and then by conferring temporary status on him, would not arise.

5. Mr. Devaraj, learned Sr. Standing Counsel, for the respondents theretofore argued that the applicant had 'not complied' with the directions given in OA 187/94, and this OA is as such not maintainable. It is not found possible to agree with this view, since there was no way the deceased employee could comply with any direction, and in the light of the very observations and directions contained in OA 288/97. The rights of the

241/1
2810

applicant in the present OA have to be determined on the basis of his eligibility under the relevant scheme on the date of his demise, and consequently, from any rights that might flow from that position.

6. It is, therefore, held that the husband of the applicant Mr. D. Venkateswar Rao, is deemed to have become eligible for grant of temporary status, regardless of whether or not he had exercised any option, since untimely demise robbed the opportunity for exercising such option by him despite the fact that he had fulfilled the conditions attached to the benefit of conferment of Temporary Status on himself.

7. Non-exercise of an option would not, under the said circumstances, obliterate the right which he had gained fully by his own entitlement under the scheme. The stand taken by the respondents cannot, be sustained or accepted.

8. It is, therefore, directed that the respondents shall review the decision contained in the impugned order and re-examine her case as per the provisions of granting appointment on compassionate grounds to casual labourers with temporary status. A decision in this regard shall be taken within 90 days from the date of receipt of copy of this order.

Thus the O.A. is disposed of.

CERTIFIED TO BE TRUE COPY

न्यायाधीश सहायक (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

क्र.सं.	OA 1134/92
दिनांक	22-12-92
को.पं.नं.	425-1-92
अनुमान प्रशासकी (न्यायिक) उप-न्यायाधीश (न्यायिक) Section Officer (J)/Dy. Registrar (J)	