

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

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O.A. No. 268/1994
T.A. No.

199

DATE OF DECISION 2-4-1997

Smt. Chanda Pani alias Sheela

Petitioner

Mr. M.S.Gupta

Advocate for the Petitioner (s)

Versus

Union of India and Ors.

Respondent

Mr. U.D.Sharma

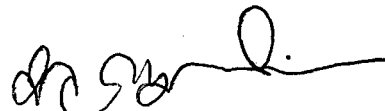
Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. PATAN PRAKASH, JUDICIAL MEMBER

The Hon'ble Mr.

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
- ✓ 2. To be referred to the Reporter or not ? Yes
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement ? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(PATAN PRAKASH)
Judicial Member

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH: JAIPUR.

G.A NO.268/94

Date of order: 2.4.92

Smt. Chanda Fani alias Sheela, W/o late Shri Chandra Kant, resident of C/o Lal Chand Floor Mill, Mohalla Thadana, Outside Delhi Gate, Alwar (Raj.).

: Applicant

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Communications, Department of Post, New Delhi.
2. The Chief Post Master General, Department of Post, Rajasthan Circle, Jaipur.
3. The Sr. Superintendent, Department of Post, Moti Dongari, Alwar Division, Alwar (Raj.).
4. The Head Post Master, Department of Post, Head Post Office, Alwar (Raj.).

: Respondents.

Mr. M.S.Gupta, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents.

CORAM:

HON'BLE SHRI FATAH FFAFASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI FATAH FFAFASH, MEMBER (JUDICIAL))

Smt. Chanda Fani alias Sheela widow of Shri Chandra Kant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to give her appointment on compassionate ground on the post of Tea Maker or any other post.

2. Facts relevant for disposal of this application and not in dispute are that the applicant's husband Shri Chandra Kant was employed as a Tea Maker in the Tiffin Room, Head Post Office, Alwar since the year 1984. He was performing the duties of Tea Maker and getting a total of Rs. 1,105=00 (Rs. 750/- as Basic Pay, Rs. 285/- as Dearness Allowance and Rs. 70/- as House Rent Allowance). Her husband Chandra Kant died on 23.6.1993 at the age of 28 years leaving her and her two minor male children between the ages of quarter to three years and one year. Having possessed of no subsistence means she submitted

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applications dated 6.8.93 and 13.8.1993 to seek compassionate appointment to the Senior Superintendent, Department of Posts, Alwar Division. According to the applicant, she also made similar applications on 29.6.1993, 21.8.1993 and 22.10.1993. She was called in connection with her appointment vide respondents' letter dated 10.7.1993 (Annx.A/4). She also served a notice dated 4.12.1993 to which reply dated 14.12.1993 (Annx.A/2) was received. Her request was ultimately rejected vide respondents' letter dated 13.11.1993 (Annx.A/1). Aggrieved, the applicant has approached this Tribunal to seek the aforesaid relief claiming that the Tiffin Room, Head Post Office, Alwar was registered and recognised by the Department vide their letter dated 29.1.1992 (Annx.A/5) and that the employees of the Non-statutory Departmental Canteens/Tiffin Rooms in the Central Government Offices were ordered to be treated as Government servants w.e.f. 1.10.1991.

3. The respondents have opposed this application by filing a written reply mainly on the ground that the Tiffin Room was a Non-statutory one and has been treated as Departmental Tiffin Room only w.e.f. 1.8.1993 and that it being unregistered on the date of death of the husband of the applicant, the applicant is not entitled to the reliefs claimed in the O.A., which deserves rejection.

4. I heard the learned counsel for the applicant as also the respondents and have examined the record in great detail.

5. On behalf of the respondents, it has been urged that firstly the Tiffin Room in question was an unregistered Tiffin Room on the date when the deceased employee, the husband of the applicant died and secondly that there has been a ban on recruitment since the year 1992. On the contrary, the argument of the learned counsel for the applicant has been that when the respondents themselves by their Office

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Memorandum dated 29.1.1992 circulated vide their letter dated 24.2.1992 (Annx.A/5) have declared that the employees of the Non-statutory Departmental/Cooperative Canteens and Tiffin Rooms located in Central Government Offices have to be treated as Government servant w.e.f. 1.10.1991 and were to be extended all benefits as are available to the other Central Government employees of the comparable status from 1.10.1991 except GPF, Pension and Group Insurance etc., the respondents are bound to give appointment on compassionate ground to the applicant who is in indigent circumstances and only supporting member of the family. It has also been urged that from their Office Memorandum dated 28.7.1993 (Annx.R/7) it is also clear that the Tiffin Room in question where the deceased husband of the applicant was working was registered since 8.2.1991 and hence her case should be considered for giving compassionate appointment. On the aspect of the alleged ban placed on recruitment, the learned counsel for the applicant has drawn attention to DOP OM No.14014/12/92 Establishment(D) dated 25.1.1993. On the basis of this OM, it has been urged that compassionate appointments are exempted from the ban on filling up of the posts in terms of the Department's OM dated 12.3.1984.

6. I have given anxious thought to the able arguments addressed on behalf of both the sides. The admitted facts are that Shri Chandra Kant, the deceased employee of the respondents died on 23.6.1993 at the age of 28 years while he was serving as a Tea Maker in the Tiffin Room, Head Post Office, Alwar. By virtue of OM dated 29.1.1992 circulated vide respondents' letter dated 24.2.1992 (Annx.A/5), it is also abundantly clear that the respondents have taken decision consequent upon the judgment of Hon'ble the Supreme Court in the case of C.K.Jhah and others and P.H.Sharma and others, delivered on 11.10.1991 that the employees of Non-statutory Departmental/Cooperative Canteens/Tiffin Rooms located in the Central Government Offices are to be treated as Government servants w.e.f. 1.10.1991. This OM further clarifies that

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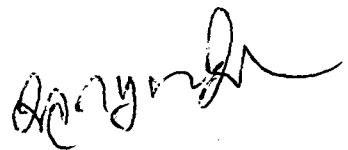
the employees of these Canteens, therefore, are to be extended all benefits as are available to other Central Government employees of comparable status from 1.10.1991 except GPF, Pension and Group Insurance etc. It is thus clear that the deceased husband of the applicant was to be treated as a Government servant w.e.f. 1.10.1991. The argument raised on behalf of the respondents that it is only w.e.f. 1.8.1993 that the Tiffin Room in question has been ordered to be treated as Departmental is fallacious. What the OM dated 29.1.1992 (referred to supra) declared is that the employees of the Non-statutory Departmental Canteens/Tiffin Rooms located in the Central Government Offices are to be treated as Government servants w.e.f. 1.10.1991 and not that these Canteens/Tiffin Rooms are to be treated as Departmental. It is one thing to declare employees of such canteens/Tiffin Rooms as Government servant and another thing to give a nomenclature of Departmental Canteens/Tiffin Rooms to them. For all purposes, the deceased husband of the applicant has to be considered to have become a Government servant w.e.f. 1.10.1991 and also entitled to receive all benefits as are available to other Central Government employees of comparable status. Moreover from Annexure R/7 dated 28.7.1993 it is also clear from the perusal of its Para 3 that " the aforesaid registration number granted w.e.f. 8.2.1991 may please be quoted in future correspondence with this office." Original record were also summoned to see whether this date 8.2.1991 is correct one or not and it was found to be 8.2.1991 only. Accordingly from the perusal of Office Memorandum Annexure R/7, it is made out that the Registration No.393-D was in effect granted w.e.f. 8.2.1991. The deceased husband of the applicant having died on 23.6.1993 was, therefore, a Government servant of a registered Tiffin Room and as such he had become entitled to all the benefits which are extended to a Central Government employee of the comparable status. As is evident from the OM dated 25.1.1993 compassionate appointments are exempted from the ban on filling up posts in terms of Department OM dated 12.3.1984. It is thus made out that the denial to extend compassionate appointment to the applicant by

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the respondents vide their impugned letter dated 30.11.1993 (Annx.A/1) is not tenable in law and is hereby quashed.

7. Therefore, while allowing this OA, the respondents are directed to consider the applicant Smt. Chanda Rani alias Sheela widow of late Shri Chandra Kant, the deceased employee of the respondent Department for appointment on compassionate grounds on the post of Tea Maker or any other post comparable with the status of a Tea Maker after giving necessary relaxation in age, if need be. The respondents should comply with these directions within a period of four months from the date of receipt of a copy of this order after complying with the necessary formalities in this regard.

8. No order as to costs.



(RATAN PRAKASH)

MEMBER (JUDICIAL)