

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI -5.

O.A. NO. 11/94
T.A. No.

DATE OF DECISION 20.9.1994

Smt. Rekha Ram

(At Shillong Circuit)
PETITIONER(S)

Mr. B K Sharma and Mr. B Metha

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Others

RESPONDENT (S)

Shri G. Sharma, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMINISTRATIVE)

1. Whether Reposters of local papers may be allowed to see the Judgment? yes
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the Judgment is to be circulated to the other Benches ?
- } No

Judgment delivered by Hon'ble Vice-Chairman.

M. G. Chaudhary

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
(At Shillong Circuit)

Original Application No.11 of 1994.

Date of decision: This the 20th September 1994.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Smt Rekha Ram,
Wife of Shri (Late) Rabindra Pd. Ram,
Ex. Contingent (Messenger),
C/o E & T Division,
Geological Survey of India, N.E.R.,
Shillong

.... Applicant

By Advocates Shri B.K.Sharma and
Shri B. Mehta.

-versus-

1. The Union of India represented by
the Secretary to the Government of India,
Ministry of Steel & Mines,
Department of Mines,
New Delhi
2. The Director (Admn.), Geological Survey of India
Calcutta
3. The Deputy Director General,
North Eastern Region,
Shillong.

..... Respondents

By Advocate Shri G. Sarma, Addl. C.G.S.C.

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ORDER

CHAUDHARI.J. V.C.

This is somewhat an unfortunate case. The deceased husband of the applicant, Rabindra Prasad Ram was employed as contingent worker in the Department of Geological Survey of India, North Eastern Region, Shillong, since 3.1.1979. He thereafter continuously worked on that basis till he died on 24.1.1991 due to cancer. After his death

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the widow, that is the applicant who has two minor children to look after, was placed in an extremely difficult position as the bread winner of the family was lost. She applied for being engaged as Messenger (contingent). She was appointed with effect from 1.7.1991 on daily wage of Rs.25/- with the same department on compassionate ground. The emoluments paid only for actual working days roughly worked out to Rs.625/- per month. The applicant was continued in that employment till 15.2.1994. In the meantime, she applied for being appointed to the grade 'D' post on a regular basis on compassionate ground. However, that application was rejected on 4.2.1993 by the respondents on the ground that it was stated therein that the Ministry of Mines, Government of India had not agreed to the proposal for providing employment assistance to the near relatives of the deceased contingent workers in the Geological Survey of India since the contingent workers are not holders of the regular posts under the Government. However, twice again she made similar applications but those also were rejected vide letters of the respondents dated 11.3.1993 and 19.7.1993. The applicant has challenged those orders and seeks that those be quashed and the respondents be directed to appoint her in any Grade 'D' post on compassionate ground effective from 1.7.1991, i.e. from the date of her initial appointment in the post of Messenger (contingent) and to grant her regular pay scale. She has also prayed for a direction to the respondents to pay her the amount due treating the period of service she rendered as on regular basis.

2. The applicant applied for interim relief for directing the respondents not to terminate or disturb her service in any manner till final disposal of the case. An

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interim order was passed by the Tribunal on 25.1.1994 whereby the respondents were directed not to terminate her services and to allow her to continue in service till the disposal of this application. Now, despite that interim order the employment of the applicant was terminated on 15.2.1994. The applicant filed Contempt Petition No.3/94 in respect thereof. We have separately disposed of the contempt petition today. However, possibly in view of the contempt petition the applicant has been re-engaged with effect from 13.4.1994 as casual worker till the disposal of this application.

3. The applicant has filed a rejoinder setting out some more grounds in support of the application. It is her case that she was entitled to be given regular employment on compassionate ground having regard to the length of her service.

4. The respondents have resisted the application and it is their contention that the applicant although was engaged from time to time that was on contract basis and not on contingent basis. That the deceased husband of the applicant was merely a contingent worker and thus he was not working as a regular employee holding a regular post under the Government and that, therefore, the applicant could not come under the purview of compassionate ground appointment rules/instructions issued by the Government of India from time to time. They state that purely on humanitarian ground, contractual engagement is given as and when required occasionally to such persons, having no claim for such appointment. According to them the applicant was given such job occasionally and she has,

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therefore, no right to claim the relief sought and, therefore, the application is liable to be dismissed. The respondents have annexed with the written statement the letter dated 10.12.1991 of the Director(Administration), Geological Survey of India, according to which the proposal for providing employment assistance to the near relative of a deceased contingent worker in the Geological Survey of India has not been agreed to by the Ministry.

5. Mr B.K. Sharma, learned counsel for the applicant has drawn our attention to the office order issued by the Government of India, Geological Survey of India, North Eastern Region, Shillong, in the month of June 1994. That order shows that temporary status has been conferred on the casual/contingent workers in the Geological Survey of India, North Eastern Region, upon the persons mentioned in the list enclosed with effect from 1.9.1993. The order further lists the benefits to which the casual labourers will be entitled on conferment of temporary status. The learned counsel submits that the policy of the Government is clearly reflected in this order and it is that contingent or casual workers are, as a matter of policy, to be conferred temporary status so that eventually they may become eligible for absorption into regular posts subject to their fulfilment of requisite qualifications prescribed in the order and that, therefore, the decision of the respondents conveyed to the applicant refusing her a contingent appointment is inconsistent with that policy. He further submits that even assuming that the applicant could not be provided any assistance on compassionate ground even as a contingent worker she should not be deprived of being treated as a casual worker for the period she has worked since the date of her initial appointment

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on 1.7.1991 and if she is entitled to be conferred with the benefits of temporary status she ought not to be deprived of the same.

6. The decision of the Government of India not to provide assistance to the near relatives of a contingent worker as reflected in the impugned orders cannot be quashed or set aside as prayed by the applicant. It is within the province of the Government of India to take policy decisions and the Government cannot be compelled to take a particular policy decision. On that ground, therefore, no relief is capable of being granted to the applicant. Moreover, as the applicant was seeking regular employment, she could not be given contingent/casual appointment also. Legally speaking, the respondents cannot be said to be not entitled to terminate her service in the light of the decision of the Government of India and the policy in respect of contingent workers. For that reason also it is difficult to grant any relief to the applicant.

6. It, however, appears to us that the submission of Mr B.K. Sharma that the appointment of the applicant could be treated purely as of a casual worker on daily wages and need not be necessarily described as contingent appointment although it may have been initially given to her on compassionate ground and her husband was also a contingent worker has merit in it. It appears to us that having regard to the adverse circumstances in which the applicant was placed owing to the unfortunate death of her husband she deserves to be shown sympathy. After all it is the policy of the Government to help the economically backward persons and an endeavour has always to be made to see that people are not driven, wherever possible, to starvation. The policy reflected in the order of the respondents dated June 1994 is

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indicative of such a broad outlook being taken by the Government of India. The background that the husband of the applicant, although a contingent worker, had worked for nearly thirteen years and the fact that the applicant herself was an employee from 1.7.1991 and was given the employment till 15.2.1994 rather suggests that there was no other reason for the respondents to terminate her service on 15.2.1994 apart from the consideration that the Government of India had not agreed to the proposal to extend the benefit to a near relative of a deceased contingent worker on compassionate ground. We think that looking to the overall circumstances of the case and the dire consequence that is likely to result to the applicant and her minor children that the respondents should adopt an equitable approach and try to provide her some appointment or continue her atleast as a casual worker. The respondents are also expected to examine as to whether by reason of her employment from 1.7.1991 as a casual worker the applicant is entitled to earn the benefit of temporary status. In this connection Mr B.K. Sharma submitted that there are circulars issued by the Government under which the applicant would be entitled to be conferred with temporary status. However, in the absence of those circulars before us we leave it to the respondents to examine the case of the applicant in the light of relevant circulars. We have no reason to believe that the respondents would deprive the applicant of accommodation even if she cannot be appointed on compassionate ground. We are not in a position to give any positive direction to the respondents to take action on the above lines, but we do hope that the respondents will earnestly and seriously consider the various aspects and

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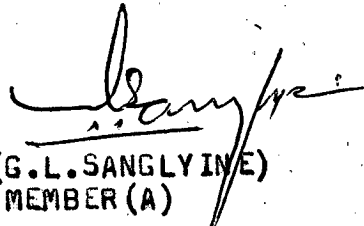
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try as far as possible to continue the appointment of the applicant on the existing basis till she is entitled to better rights. If, however, the respondents are not able to do so for any valid or legal reason above observations should not be taken as precluding them from acting as they may be advised. The respondents are, however, directed not to terminate the present employment of the applicant without examining her position in the light of what is stated above and only thereafter, if necessary. Mr. B K Sharma submits that the daily wage is now Rs. 41/- per day. However, according to Mr. G Sarma it is Rs. 35/- per day. The respondents will take the correct wage into account.

7. Mr. G. Sarma, Learned Addl. C.G.S.C. for the respondents, submitted that the stand taken by the respondents in the written statement is legally correct and, therefore, the applicant is not entitled to any relief. We have already dealt with that aspect above.

8. Subject to the observations made above, the application is disposed of. There will be no order as to costs.


(G.L. SANGLYINE)
MEMBER (A)


(M.G. CHAUDHARI)
VICE-CHAIRMAN