

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.4237/2014
M.A.No.2803/2015
M.A.No.____/2014 (condonation of delay)

Thursday, this the 27th day of August 2015

Hon'ble Mr. A.K. Bhardwaj, Member (J)

Munni Devi, aged 52 years
w/o late Mr. Chander Bhan
Ex-Temporary Status Group D
Vill & PO Jalkhera
Distt. Bulandshar, UP

..Applicant

(Mr. K K Sharma, Advocate)

Versus

Union of India through

1. Secretary,
Department of Post
Ministry of Communication & IT
Dak Bhavan, Parliament Street
New Delhi-1
2. The Post Master General
Agra Region,
Agra (UP)
3. Superintendent of Post Offices
Bulandshahr Division
Bulandshahr – 203001

..Respondents

(Mr. Manjeet Singh Reen, Advocate)

O R D E R (ORAL)

M.A.No.2803/2015

This M.A. filed by the applicant is not opposed by Mr. Manjeet Singh Reen, learned counsel for respondents, thus allowed. As a result, M.A. No. NIL of 2014 filed for condonation of delay (pages 31 to 33 of the paper book) is dismissed as withdrawn.

O.A.No.4237/2014

Late Mr. Chander Bhan, husband of the applicant, was engaged as contingency paid waterman in Bulandshahr Head Post Office under Bulandshahr Postal Division w.e.f. 26.5.1987 on daily wage basis. Pursuant to the letter of D.G. (Posts), New Delhi dated 12.4.1991 he was given temporary status w.e.f. 29.11.1989 but was not regularized till he died on 23.9.2004. In the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, i.e., the widow of late Mr. Chander Bhan, has sought issuance of direction to the respondents to grant her family pension and other terminal benefits payable to widow of a deceased government servant w.e.f. 23.9.2004 with interest.

2. When learned counsel for applicant relied upon the judgment of Hon'ble High Court of Delhi in **Sharda Devi v. Union of India & others** (Writ Petition (C) No.3018/2012) decided on 25.4.2013 and read out the same, Mr. Manjeet Singh Reen, learned counsel for respondents submitted that the applicant should first represent to the concerned authority in the Department and comply with the provisions of Section 20 of the Administrative Tribunals Act, 1985. Relevant excerpt of said judgment reads thus:-

“8. The facts are that one Bakshi, also appointed as a casual chowkidar, but on November 28, 1983, i.e. after 5 years and 9 months of petitioner's husband being appointed as a casual chowkidar, was conferred temporary status on August 03, 1989, and as per order passed on March 14, 1996, was granted benefit of regularization with retrospective effect i.e. August 03, 1989 the date on which he acquired temporary status. The respondents are unable to explain as to why petitioner's husband who was appointed as a casual chowkidar on February 01, 1978 was granted temporary status on November 29, 1989 i.e. after 3 months of Bakshi being accorded temporary status in spite of Bakshi having joined more than 5 years after petitioner's husband. Further, if by the year 1996 enough vacancies existed entitling Bakshi to be regularized, we find it strange that till when he died in the year 2006 petitioner's husband was not regularized.

9. We note that as per the policy those who had acquired temporary status were entitled to be regularized against regular vacancies as and when they arose. In a somewhat similar circumstance, in the decision pronounced by the Supreme Court which is reported as: 1996 (7) SCC 113 Yashwant Hari Katakhar Vs. UOI & Ors. the Supreme Court opined that it would be unbelievable that a temporary status employee could not be made permanent even after serving for 18 1/2 years. Pension was directed to be paid.

10. If Bakshi, who had joined as a casual chowkidar more than 5 years after petitioner's husband, was regularized in service we see no reason why petitioner's husband was not so regularized.

11. As per the policy, upon regularization, temporary service rendered has to be counted for purposes of pensionary benefits.

12. The writ petition is allowed. The respondents are directed to sanction family pension to the petitioner and pay the same with effect from the date her husband died in service as also such other benefits to which she would be entitled to with reference to the pensionable service rendered by her husband.

13. Arrears would be paid within 12 weeks failing which the same shall bear interest @ 9% per annum reckoned from 2 months from today till when payment is made."

3. In view of the aforementioned, the Original Application is disposed of with liberty to the applicant to make a representation to respondent No.3 within a period of two weeks from the date of receipt of a copy of this Order and if the representation is made within the given time, respondent No.2 would hear the applicant personally and take a decision regarding entitlement of the applicant to pension and pensionary benefits, within four weeks from receipt of representation, with due regard to the aforementioned judgment of Hon'ble High Court of Delhi. No costs.

(A.K. Bhardwaj)
Member (J)

August 27, 2015
/sunil/