

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 21/1130/2017

**Reserved on: 07.03.2019
Pronounced on: 11.03.2019**

Between:

M. Raj Kumari, W/o. late M. Prakash,
Ex-Mil. Farm Hand (TS), aged about 35 years,
Plot No. 15, Ram Raj Nagar, Near Hi-Tech School,
Old Bowenpally, Secunderabad – 500 011.

... Applicant

And

1. Union of India, Represented by
The Director General of Military Farms,
QMG Branch, Army Head Quarters,
West Block, R.K. Puram, New Delhi.
2. The Deputy Director General of Military Farms,
Quartermaster General's Branch, Integrated HQ of
Ministry of Defence (Army),
West Block, R.K. Puram, New Delhi.
3. The Director of Military Farms,
Head Quarters, Southern Command,
Kirkee, Pune.
4. The Officer-in-Charge,
Military Farms, Bowenpally, Secunderabad.

... Respondents

Counsel for the Applicant	...	Smt. Rachna Kumari
Counsel for the Respondents	...	Smt. B. Gayatri Varma, Sr. PC for CG

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. Applicant has filed the OA for non grant of compassionate appointment.
3. Applicant's husband late Sri M. Prakash while working in the respondents organisation as a temporary status casual labourer w.e.f 1.9.1993 passed away on

31.1.2012 leaving behind the applicant and 2 children. As per the O.M dt 10.9.1993, which deals with Temporary status and regularisation of casual labour, the services of applicant's late husband along with others were supposed to be regularised. As their services were not regularised they have filed OA 219/2008 in this Tribunal, wherein it was directed on 23.10.2009 as under:

“regularise the services of the applicants as and when vacancies arise in accordance with OM dt 10.9.1993. No junior to the applicants shall be regularised as Group D before regularising the services of the applicants and they should be continued as Temporary status casual labourers till their services are regularised as Group D employees.”

Respondents in response issued an order on 20.5.2010 stating that the senior most casual labourers upto 28 in number will be considered for recommending them to the competent authority. Applicant's husband and others challenged this order in OA 1145/2010 but it was disposed of on 8.4.2011 finding no fault with the respondents decision to prepare an All India seniority list of casual labourers working in Military farms. Respondents regularised the services of the other applicants in the OA 1145/2010 on 2.3.2011 but not the applicant's husband, who later died on 31.1.2012 without being regularised. When the applicant represented on 20.2.2013 for compassionate appointment, she was informally told to work as casual labour on contractor slip. Applicant started working as casual labourer from Feb 2013 onwards. Later the applicant was informed vide letter dated 10.5.2016, in response to her representations dated 15.1.2015 and 18.4.2016, stating that she is not eligible for compassionate appointment as her late husband died when he was working as casual labourer on temporary basis. Compassionate recruitment is offered only to the dependents of regular employees. Aggrieved with the decisions of the respondents the OA has been filed.

4. The contention of the applicant is that being in indigent circumstances the applicant was forced to work as a casual labourer on contractor slip. Applicant claims that her husband died of cancer and for his medical treatment loans were taken which have to be repaid. Children have to be taken care of and that she has no support whatsoever except to look forward for compassionate recruitment. Further contention of the applicant is that her husband should have been regularised along with others on 2.3.2011. It was deliberately delayed. Non regularisation the services of her late husband service was violative of the orders of this Tribunal dt 23.10.2009 and 8.4.2011 respectively. Applicant has cited Hon'ble Apex court judgment in General Manager, Uttaranchal Jal Sansthan v Laxmi Devi wherein it was held that the dependents of deceased employees irrespective of they being permanent or temporary are to be considered for compassionate appointment. Applicant is living in indigent circumstances and hence is eligible to be considered for compassionate recruitment.

5. Respondents state that in accordance with the orders of this Tribunal in OA 219/2018 the details of all casual labourers working in military farms and who have gone to court were collected to prepare a seniority list for regularising their services based on seniority. Competent authority has released 28 vacancies for regularising the services of temporary status casual labourers. Respondents vide their orders dt 2.3.2011 regularised the services of 3 temporary status casual labourers as Group D. Another 4 casual labourers namely Sri M. Prakash (applicant), Sri A.Raju, Sri Kalicharan, Sri Surender Singh Chauhan were granted temporary status as per respondents orders dt 19.10.2011. By the time permanent vacancies could be released late husband of the applicant died on 31.1.2012. Therefore the remaining 3 temporary casual labourers named above were regularised on receiving orders from the competent authority on 2.5.2015.

The request of the applicant for compassionate recruitment could not be considered as dependent members of permanent Group D staff are only eligible to be considered and her late husband at the time of death was a temporary status casual labourer. Besides, there is no scheme for considering temporary status casual labourers for compassionate appointment. In view of this fact the orders of the Hon'ble Supreme Court and that of the Hon'ble Principal Bench order of this Tribunal in OA 144/2013 have not been violated.

6. Heard both the counsel and perused the documents plus the material paper submitted.

7. The applicant is seeking compassionate appointment as her late husband died while working for the respondents as temporary service casual labourer for as many as 23 years. Respondents inform that there is no scheme to provide compassionate recruitment to the dependent family members of temporary staff. As per the scheme in vogue only dependent family members of permanent/regularised employees are eligible to be considered for compassionate appointment. The learned counsel for the applicant submitted that though the late husband of the applicant was senior, ignoring his claim juniors were regularised. To know the truth respondents were directed to submit details as to whether any Junior to the late husband was regularised. Accordingly respondents submitted details vide letter dated 26.2.2019. In this letter it is seen that Sri Sattaiah, Sri Kuwar Singh who were juniors to the late husband of the applicant, as per seniority list submitted by the respondents vide Annexure – I to the reply statement, were regularised on 10.3.2011. The employees cited were juniors to the late husband of the applicant both in terms of number of days of service rendered. As on 10.3.2011 the late husband of the applicant was alive. Therefore he should have been regularised as per orders of this Tribunal dated

23.10.2009 and 8.4.2011 respectively, wherein it was ordered that the juniors to the applicants should not be regularised before the applicants are regularised. In other words the Tribunal has made it categorical that the senior shall be first regularised and then those junior to him. It requires no reiteration that in Service law the principle of seniority is sacrosanct. Even the respondents prepared the seniority list, after gathering the details of all the temporary status casual labourers who have gone to court, in order to regularise their services based on order of seniority. It is not known as to how respondents have infringed the norm of seniority set by them and the Tribunal in the OAs cited. Therefore the action of the respondents is against the well established principle of seniority and the orders of this Tribunal. In view of the facts discussed the late husband of the applicant ought to have been regularised on or earlier to 10.3.2011 vis a vis his juniors. Though the applicant has passed away he has to be notionally considered to have been regularised on 10.3.2011 keeping in view the orders of this Tribunal cited. Once he is considered to have been regularised from the said date notionally, he is deemed to have attained the status of a permanent employee. As a corollary the applicant who is the legal heir of the deceased employee would be eligible for compassionate appointment. Thus in the context of the merits of the case as discussed above, the action of respondents in negating the request of the applicant for compassionate recruitment is therefore against rules as well as arbitrary and illegal. The impugned order dated 10.5.2016 issued by the respondents is therefore quashed. Consequently the respondents are directed to consider as under:

- i) To consider the request of the applicant for compassionate recruitment based on extant rules.

- ii) As per compassionate appointment rules circulated by DOPT OM OM-F.No. 14014/02/2012-Est (D) dt.16.1.2013 a responsible officer has to be deputed to assess as to whether the family of the deceased employee is living in indigent circumstances. Respondents to adhere to this rule in examining the request of the applicant for compassionate recruitment.
- iii) Time allowed to implement this order is 3 months from the date of receipt of this order.
- iv) With the above directions the OA is allowed.
- v) No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 11th day of March, 2019

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