

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.202/2019

Dated Tuesday, the 26th day of February, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

B.Seethalakshmi,
W/o.Late R.Balachander,
No.10-A, Mettu Street,
Beemanagar, Trichy 620 001.
By Advocate M/s.Akbar Row

...Applicant

Vs.

1.Union of India, Rep., by
The Chairperson,
Central Board of Indirect Taxes and Customs
Ministry of Finance, Department of Revenue,
North Block, New Delhi 110 001.

2.The Principal Chief Commissioner of GST & Central Excise,
No.26/1, Mahatma Gandhi Road,
Chennai 600 034.

3.The Commissioner of GST & Central Excise,
No.1, Williams Road Cantonment,
Trichy 620 001.

...Respondents

(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“(i)To call for all the records pertaining to the impugned order dated 31.10.2018 passed by the 3rd respondent under file C.No.II/39/05/2015-Estt quash and set aside the same;

(ii)To direct the 1st, 2nd & 3rd respondents to posthumously regularize the applicant's deceased husband R.Balachander's services and thereafter count 50% of temporary service for the purpose of DCRG, Family Pension and other terminal benefits;

(iii)To direct the 1st, 2nd and 3rd respondents to grant all the consequential and attendant benefits including DCRG, Family Pension and accrued arrears with 12% interest @ p.a.; and

(iv)To pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.”

2. It is submitted that the applicant is the widow of one late R.Balachander who was employed as Casual Labourer/Contingent Employee in the third respondent office on 12.06.1995. He was conferred with temporary status w.e.f 01.02.2000 by an order dated 03.02.2000 based on the directions of this Tribunal dated 15.03.1999 in OA 1211/1999. The applicant's late husband was in continuous and uninterrupted employment on the third respondent's office for more than two decades when he passed away on 18.01.2017. The applicant submitted a representation dated 14.06.2017 seeking posthumous regularization to her late husband and grant of family pension to her in terms of DOPT OM dated 26.02.2016 but the same was not considered.

3. The applicant filed OA 16/2018 which was disposed of by this Tribunal by an order dated 04.01.2018 directing the competent authority to consider the representations of the applicant dated 14.06.2017, 14.07.2017, 01.08.2017 & 01.11.2017 and pass a speaking order in accordance with law. Annexure A-7 order dated 31.10.2018 came to be passed in pursuance thereof aggrieved by which the applicant is before this Tribunal again.

4. Learned counsel for the applicant would submit that apart from stating that the matter of regularization of persons similarly placed as the applicant's husband had been taken up with the Board, the impugned order goes on to state that the name of the applicant's late husband had not been included in the current proposal as Casual Labourers who had retired/expired had not been considered for regularization. It is submitted that such a stand could not be regarded as disposal of her representation in accordance with law as no reasons have been stated therefor.

5. Learned counsel for the applicant would draw attention to the Annexure A-2 order of this Tribunal in OA 813/2014 dated 10.04.2015 in a similar matter wherein relief was granted to the widow of the Casual Labourer by directing the respondents to grant family pension to the applicant by counting 50% of the services rendered in temporary status by her late husband. The order relied on an earlier order of the Principal Bench of this Tribunal in **Smt.Guddi Vs. NET of Delhi and Ors as**

reported in 2006(1)SLJ 164 CAT to the effect that in deserving cases direction to be issued to grant posthumous regularization and grant all retirement benefits. Accordingly, it is submitted that the applicant's claim could not be brushed aside by merely stating that the name of the applicant's late husband had not been included in the current proposal.

6. On perusal, it is seen that the impugned order does not explain whether the proposal sent to the Board was for regularization with retrospective effect in respect of the Casual Labourers who along with the applicant's late husband had submitted a combined representation dated 07.06.2016 requesting to regularize them from temporary status to permanent status as they were allegedly deemed to be covered under the 1993 scheme as in para 8 of the DOPT OM No.49014/2/2014 Estt(C) dated 26.02.2016. If the proposal is to regularize the Casual Labourers from the date anterior to the date of death of the applicant's late husband there is no reason why retrospective regularization should not be granted to the applicant's late husband as and when his juniors are regularized. However, considering that unlike the applicant in OA 813/2014 who had been conferred with temporary status w.e.f 01.09.1993, the applicant's late husband and others had only been engaged in the year 1995 and granted temporary status w.e.f 01.02.2000, the respondents must take an expeditious decision on the proposal said to be pending with the Board.

7. In view of the above, it is directed that a decision shall be taken on the proposal referred to in Annexure A-7 communication dated 31.10.2018 within a period of three months from the date of receipt of a copy of this order. In the event of the decision being favourable to persons similarly placed as the applicant's late husband, the respondents shall also pass a reasoned and speaking order with regard to the eligibility of the applicant's late husband for posthumous regularization in the light of the judicial precedents supra relied upon.

8. OA is disposed of as above.

(R.RAMANUJAM)
MEMBER (A)
26.02.2019

M.T.