

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**OA/310/01629/2016**

**Dated Tuesday the 21<sup>st</sup> day of August Two Thousand Eighteen**

**PRESENT**

**HON'BLE MR. R. RAMANUJAM, Member (A)**

D.Kanmani,  
W/o Devaraj,  
residing at Kani Bai Thottam,  
Uppalam Road,  
Puducherry 1. ....Applicant

By Advocate M/s. P. Rajendran

Vs

The Union Territory of Puducherry,  
rep by the Chief Engineer,  
Public Works Department, Puducherry. ....Respondent

By Advocate Mr. R. Syed Mustafa

**ORAL 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 relief:

“To call for the records relating to the impugned order of the respondent in No.1-182/PW/CE/Estt./EC9/2016/1242 dated 28.04.2016 and quash the same and direct the respondent to appoint the applicant in a permanent post on regular basis and grant her all consequential benefits and render justice.”

2. It is submitted that applicant was aggrieved by Annexure-A8 of the respondents dated 28.04.2016 by which her request for compassionate appointment had been turned down on the ground that nearly 140 applicants had been appointed as Multi Tasking Staff (Public Works) – a regular Group ‘C’ posts during February 2016 and, hence, recruitment to regular Group ‘C’ posts on compassionate grounds against 5% of the vacancies had already been fully availed. It is alleged that with a view to relieving the family of the deceased Government Servant from financial destitution and to help it tide over the emergency, the applicant had been engaged as a Casual Labourer due to non availability of vacancies in regular Group –C posts under the quota prescribed for compassionate appointment. 226 similarly situated candidates had also been considered and engaged as casual labourer on compassionate grounds.

3. Learned counsel for the applicant would submit that the scheme of compassionate appointment provides for regular appointment on Group-C posts to the extent of 5% of vacancies to be filled under Direct Recruitment quota. The impugned order does not reveal whether 5% quota was fully subscribed to by appointment of persons on compassionate grounds or whether the 140 persons appointed otherwise as M.T.S occupied vacancies that included those meant for compassionate appointment. Clearly, if posts available for compassionate appointment had been utilized for regular appointment and as a consequence, persons having claim for compassionate appointment are being engaged as casual labourer, it would be against the provisions of the scheme and, accordingly, the order is liable to be set aside, it is contended.

4. On perusal, it is seen that neither the impugned order nor the reply filed by the respondents in this O.A. discloses the number of vacancies available for compassionate appointment under the 5% quota of direct recruitment vacancies and whether the 140 applicants who were appointed as MTS had all been appointed under the scheme of compassionate appointment or otherwise. If vacancies were available for compassionate appointment and the respondents had inadvertently or deliberately filled up all the vacancies including those meant for compassionate appointment with others not coming

under compassionate appointment, the applicant could not be penalized for the same. Further, the mere fact that another 226 persons had been accommodated by way of engagement as casual labourers is no justification to reject a claim for compassionate appointment, if vacancies were available and the applicants were entitled to be considered.

5. In view of the above, Annexure-A8 impugned order dated 28.4.2016 rejecting the representation of the applicant dated 23.2.2016 is quashed and set aside. The respondents are directed to examine whether the 5% vacancies under compassionate appointment quota was fully subscribed with persons eligible to be appointed under the compassionate appointment quota and if not, consider the applicant along with other claimants for the vacancies that ought to have been filled under the quota for compassionate appointment and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order.

6. The O.A. is disposed of. No costs.

**(R. Ramanujam)**  
**Member(A)**  
**21.08.2018**

SKSI