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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 2743/2003

New Delhi this the 7th day of January, 2005

Hon'ble Mrs. Meera Chhibber, Member (Judicial)

Smt. Kiran Bala,
W/O Late Shri Kalu Singh,
R/0 89-A, DDA Flats,
Chilla, Mayur Vihar Phase-1,
Delhi

..Applicant

(By Advocate Shri Durgainder Singh)

VERSUS

Union of India
Through Secretary
Ministry of Social Justice and
Empowerment, Shastri Bhawan,
New Delhi.

..Respondents

(By Advocate Shri R.N. Singh)

ORDER (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (J)

By this OA, the applicant has sought a direction to the respondents to release family pension to her from the date her husband expired on 17.9.2000 and to give her suitable appointment on compassionate ground in the department and pass such other orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. It is submitted by the applicant that her husband was initially appointed as a driver in the Implementation Committee on 1.7.1989 and was later on appointed to the post of Staff Car Driver in the Ministry of Welfare w.e.f. 15.01.1990. He continued to work on the said post till 17.9.2000 when he expired. Since applicant was finding it difficult to cope up, she applied for appointment on compassionate ground as she has a minor son aged 7 years apart from herself to support. Department made payments of Rs.51,465/- on account of encashment of earned leave of 300 days, Rs.17,370/- on account of Central



Government Employees Group Insurance Scheme, Rs.4,617/- on account of reimbursement of medical expenses and Rs.25,777/- towards GPF balance.

3. The respondents had issued an advertisement for appointment to the post of 'Wash Boy' in the Madhuri Departmental Canteen with the Ministry of Social Justice and Empowerment, for which the applicant also applied. She was called for interview on 28.1.2002 but thereafter neither any order was passed nor was she given the family pension. Thereafter, she had filed OA 2103/2003 in the Tribunal which was decided on 27.8.2003 (Annexure A-6) by directing the respondents to decide the representation of the applicant for grant of family pension by passing a reasoned and speaking order within a period of two months from the date of receipt of a copy of the order. Respondents passed the order on 26.9.2003 stating therein that applicant is not entitled to either family pension or grant of compassionate appointment as the deceased employee was not a regular employee of this Ministry.

4. Counsel for the applicant submitted that from the counter itself it is cleared that deductions like GPF and CGEIS were made from the salary of the applicant's husband. The applicant's husband was also given festival advance and medical reimbursement as well which itself shows that he was a regular employee. Therefore, the applicant cannot be denied the benefits, as claimed by her.

5. Counsel for the respondents, on the other hand, submitted that applicant's husband was not a permanent employee of the Ministry as no such order has been placed by the applicant on record. On the contrary, the orders which are placed on record clearly demonstrate that applicant's husband was appointed on a temporary and ad hoc basis. Simply because certain deductions were made from the salary of the applicant's husband inadvertently, do not make him a regular employee. However, they have still considered the applicant's case sympathetically when she applied for the post of Wash Boy. Even though she was not eligible for the post as per the recruitment rules, yet she was called



for interview for the post after giving her relaxation in the recruitment rules. But the Selection Committee constituted for the purpose did not find her suitable for the post. Therefore, she could not be given appointment as Wash Boy, and have prayed that the OA may be dismissed.

6. I have heard both the learned counsel and perused the pleadings as well. In para 4.3 of the OA the applicant has herself stated that her husband was appointed to the post of Staff Car Driver in the Ministry of Welfare on temporary and ad hoc basis for a period of six months w.e.f. 15.1.1990 and even the documents which are placed in the OA itself show that her husband was given appointment only on ad hoc basis and was never given regular appointment, ^{or is} ~~which~~ goes without saying that for regular appointment, one has to conform the recruitment rules and appointment can only be made against sanctioned posts. Simply because the applicant's husband was continued for a period of 10 years on ad hoc post, we cannot treat the applicant's husband as a regular appointee as neither he was selected for the post of Staff Car Driver in response to any advertisement nor was he appointed against any sanctioned post. It is correct that certain deductions were made from the salary of the applicant's husband which are generally made from the regular employees but that by itself will not make the applicant's husband as a regular employee. It is seen from the records itself that the amount and allowances which ^{were} ~~are~~ deducted from the applicant's husband have already been paid to the applicant after the death of her husband. Therefore, nothing more remains to be paid on account of those deductions. The question before us is whether the applicant can be given compassionate appointment and family pension when both these reliefs are available to the dependents of regular employees only. Since applicant's husband was not a regular employee, the order



passed by the respondents cannot be stated to be illegal. Therefore, I find no illegality or infirmity in the order passed by the respondents. OA is accordingly dismissed with no order as to costs.



(Mrs. Meera Chhibber)
Member (J)

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