

**SUPREME COURT OF INDIA**

Cochin Dock Labour Board

Vs.

Leenamma Samuel

(S Agrawal and G Nanavati JJ.)

26.03.1997

**ORDER**

1. Special leave granted.

2. This matter relates to giving appointment on compassionate ground to Respondent 1 after the death of her husband who was in the service of Cochin Dock Labour Board (hereinafter referred to as "the Board"). The husband of Respondent 1 died on 27-7-1987 and on 3-8-1987 she submitted an application for appointment on compassionate ground. Since the said appointment was not given to her, she filed the writ petition giving rise to this appeal. On behalf of the Board it was submitted before the High Court that there were 250 dependants registered in the register kept by the first respondent as on the date and it will not be fair to consider the claim of Respondent 1 in isolation. The learned Single Judge of the High Court, by his judgment dated 8-8-1991, allowed the writ petition and directed that Respondent 1 be appointed against the next arising vacancy suitable to her qualification. Letters patent appeal filed by the Board against the said judgment of the learned Single Judge has been dismissed by the Division Bench of the High Court by the impugned judgment dated 4-7-1996. Hence this appeal.

3. The learned counsel for the Board submitted that the matter of appointment of Respondent 1 on compassionate ground was considered by the Board on 31-10-1987 and it was decided that in view of the fact that there were 250 workmen as on date in the register of dependants kept by the Board it

will not be fair to consider the claim of Respondent 1 for a job in isolation. Thereafter, the matter was again considered by the Board on 26-9-1988 and it was decided that the claim of Respondent 1 for appointment could be given due consideration when the Board decides to fill up the vacancies in the category of staff and based on her seniority in the dependants' register. In the meeting of the Board held on 26-6-1991 a priority list of dependants was prepared wherein the dependants were divided into three categories. The first priority list was of dependants of employees who died while in service. The second priority list was of dependants of employees who were removed on medical grounds and the third priority list was of dependants of employees who were removed from service consequent to their accident while on duty. The name of Respondent 1 appeared in the first priority list containing 142 names and she was placed at Serial No. 84. It is stated that at the time of the filing of the special leave petition Respondent 1 stood at Serial No. 17.

4. Having regard to the fact that a number of dependants of employees who had died while in service and whose names were above that of Respondent 1 in the first priority list had not been given appointment, the High Court was in error in giving a direction that Respondent 1 should be given appointment on compassionate ground against the next available vacancy. The Board was justified in taking the stand that Respondent 1 could not be considered for such appointment out of turn. We are, therefore, unable to uphold the direction given in the impugned judgment of the High Court that Respondent 1 be appointed against the next arising vacancy.

5. In the result, the appeal is allowed, the judgment of the learned Single Judge as well as that of the Division Bench of the Kerala High Court are set aside and the writ petition filed by Respondent 1 is disposed of with the direction that the application of Respondent 1 for appointment on compassionate ground should be considered as per her turn in the first priority list in accordance with the rules. No order as to costs.