

CASE NO.:
Appeal (civil) 9182 of 1996

PETITIONER:
FOOD CORPORATION OF INDIA WORKERS UNION

Vs.

RESPONDENT:
THE FOOD CORPORATION OF INDIA & ANR.

DATE OF JUDGMENT: 02/02/2001

BENCH:
S. Rajendra Babu & Shivaraj V. Patil.

JUDGMENT:

L...I...T.....T.....T.....T.....T.....T.....T...J
RAJENDRA BABU, J. :

This Court by an order made on 16.7.1996 disposed of Civil Appeal No. 9182 of 1996 giving certain directions in regard to reinstatement of the workmen who had been retrenched for identification and reinstatement and for certain incidental reliefs. Inasmuch as the litigation between the parties is one of several decades, the benefit of reinstatement as directed by this Court could not be given to some of the employees who had died between 1975 to 1996. Therefore, an application I.A. No. 5 has been filed in Civil Appeal No. 9182 of 1996 which has been disposed of earlier. The claim made in this I.A. is basically for appointment and posting of kith and kin of deceased workmen on the basis of identification of the said kith and kin under terms and conditions set out by this Court in the order referred to by us. When the matter came up for consideration on 17.2.1998 this Court noticed that the only prayer that survives for consideration is the prayer relating to appointment of kith and kin of the deceased workmen and this Court gave certain directions in regard to furnishing the latest list of claimants for such appointment. Again on 25.2.2000 when this matter came up for consideration this Court directed the applicants to prepare two lists out of the main general list (which is at page No. 276 of the paper book) and the first list shall be of those persons who have died between 1975 and 6.8.1989 and second list shall be of those persons who have died on or after 7.8.1989 till 1996. On furnishing of such lists, the Food Corporation of India was directed to scrutinise the lists of those persons who have died on or after 7.8.1989 and who would have got benefit of the order of this Court dated 16.7.1996, but for their unfortunate death after 1989 and before 1996 and to consider the claim of the kith and kin of the deceased workman as per the rules and regulations and policy decision dated 7.8.1989 as subsequently modified by two other policy decisions. So far as the first list was concerned, it is made clear that order will be passed thereafter. In regard to second list furnished an affidavit has been filed on 7.8.2000. The stand of the respondents is that the policy changed after 7.8.1989 and, therefore, there

was necessity for this Court to give directions as regards those persons who have died prior to 7.8.1989. The stand of the respondents is that the circular dated 7.8.1989 applies only to DPS workers who had died in harness and as such it is imperative that the said workman should have been actually working when he died but the applicability of the circular dated 7.8.1989 and, therefore, contended that the cases of persons who were not actually reinstated and who died prior to reinstatement cannot be considered for appointment on compassionate grounds. This stand of the respondent is plainly unacceptable because legally retrenched workmen were directed to be but had not been though entitled to be reinstated. Therefore, what is to be considered is the cases of those persons who had been directed to be reinstated and have not been reinstated and such persons must be deemed to be in service and died in harness for the purpose of this order and applicability of the circular dated 7.8.1989. If this aspect is borne in mind, the same directions that have been given by this Court on 25.2.2000 by which the other part of the I.A. had been disposed of shall also be applicable. Though several aspects have been addressed before us, it is not necessary to consider them in these proceedings because the other directions issued by this Court in regard to identification of the workmen or their kith and kin and applicability of the circulars will be the same. So far as those persons who had died prior to 7.8.1989 are concerned, the directions shall be the same except in regard to the change in the policy that has taken place subsequent to that date.

Therefore, the I.A. shall stand disposed of in the terms as aforesaid.