

157

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.163 of 1986.

Date of decision : December 2, 1987.

Smt. Sabita Das, wife of
Sri Braja Mohan Mohanty,
Announcer in South Eastern
Railway, Cuttack Railway Station,
Cuttack.

...

Applicant.

Versus

1. Union of India, through General
Manager, South Eastern Railway,
Garden Reach Road, Calcutta.
2. Divisional Railway Manager,
South Eastern Railway, Khurda.

...

Respondents.

For the applicant	...	M/s. B.K. Sahoo & S.B. Mishra, Advocates.
For the respondents	...	Mr. Ashok Mohanty, Standing Counsel (Railways)

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN,

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No.
 3. Whether Their Lordships wish to see the fair copy of the
judgment ? Yes.
-

J U D G M E N T

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of

Administrative Tribunals Act, 1985, the applicant claims pay scale of Rs.260-400/- which is the prescribed pay scale for the regular Class III employees.

2. Shortly stated, the case of the applicant is that she is at present working as a Lady Announcer in the Cuttack Railway Station by virtue of the fact that she was appointed as a casual Khalasi on 12.6.1980. She has been working as such since then. The applicant has in the meanwhile attained temporary status and is being paid all her entitlements. She is also enjoying all the perquisites prescribed thereof. Her main grievance is that though she has been working for the last 7 years and has attained the temporary status yet she is not being regularised in the post in question and therefore, the applicant prays that not only her pay be fixed at Rs.260-400/- but the respondents be commanded to absorb her in a regular post.

3. In their counter, the respondents maintained that after the applicant has been given temporary status and admittedly she was made entitled to all the emoluments prescribed for a person who has attained temporary status, the question of absorbing her in a regular post is inconceivable without any post having been sanctioned by the Government and without her suitability having been adjudged. In such circumstances, it is contended by the respondents that the case being devoid of any merit, is liable to be dismissed.

4. We have heard Mr. B. K. Sahoo, learned the applicant and Mr. Ashok Mohanty, learned Standing Counsel for the Railway Administration, at some length. That the applicant was appointed as a casual Khalasi and was discharging the duties of an Announcer in the Cuttack Railway Station and the fact that she is being paid the pay scale of Rs. 196-232/- which is the prescribed scale of pay for persons having attained temporary status is undisputed. The only question on which it was urged by learned counsel for the applicant is that according to Establishment Serial No. 239/80 dated 30th October, 1980, the applicant is entitled to regular pay scale of Rs. 260-400/- because she has served the department for about 7 years. Learned counsel for the applicant emphasised on the following matters contained in the Establishment Serial, which run thus :

" Keeping in view the fact that the aforesaid category of employees on their attaining the temporary status could enjoy the same privileges as admissible to temporary employees such as they are paid in regular scale of pay and also earn increments, contribute to Provident Fund etc.. "

Learned counsel for the applicant submitted that the word ' regular scale of pay ' mentioned in the said Serial eventually means the scale of pay for Class III employees ranging between Rs. 260-400/-. After giving our anxious consideration to the arguments advanced at the Bar and after perusing the relevant portion of the Establishment serial (quoted above) we are of opinion that there is no merit in the contention of learned

VI

Counsel for the applicant because the ^{regular} scale of pay ~~the~~ regular scale of pay prescribed for persons who attained the temporary status i.e. Rs.196-232/-. The said scale of pay having been allowed in favour of the present applicant, we find that there is no merit in the contention of the learned counsel for the applicant to give a higher pay scale to the applicant in respect of the post which is not in existence.

5. It was next contended by learned counsel for the applicant that four typists namely M/s. S. M. Rath, P.K. Misra, Smt. Ruby Bhattacharya and Sri R.M. Babu, though appointed as Khalasi are being given the regular pay at the scale of pay of Rs.260-400/- ~~on~~ discharging the duties of typists and in such circumstances, the applicant doing the same nature of duty should be given the same scale of pay. We do not find any merit in the aforesaid contention of learned counsel for the applicant because there is admittedly no post of Announcer. In case, this fact is true, then the concerned authorities are giving regular pay scale payable to Class III employees because there are posts of typists in existence. However, the admitted position is that there is no post of Announcer. We cannot direct the respondents to pay to the present applicant the regular scale of pay ranging between Rs.260-400/-.

6. In view of the aforesaid discussion though we do not find any merit in the case, yet it was told to us by learned counsel for the applicant that the father of the

applicant has recently died and we are aware of the directives contained in the directives issued by the Central Administrative Tribunal once a particular employee dies, some of his legal heirs may be appointed to a post by the Railway Department on compassionate ground. In the past we have also come across several cases of this nature where on compassionate ground legal representative of a particular deceased employee has been given appointment. The case of the present applicant being similar in nature, we trust and hope the authorities concerned would take a compassionate view over the applicant and try to give a regular post, if available subject to her suitability.

7. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

B.R.PATEL, VICE-CHAIRMAN,

I agree.

[Signature]
2.12.87
.....
Member (Judicial)

[Signature]
2.12.87
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench : Cuttack.
December 2, 1987/S.Sarangi.