

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.355 of 1988

Date of decision 5th April, 1989

1. Jane Marie Hatton
W/o Lewellyn Ethelbart Hatton
aged about 46 years
Block No.G-678, Accounts Colony,
Khurda Road, Post/P.S.Jatni, Dist.Puri.

..... Applicant

-Versus-

1. Union of India through General Manager,
South Eastern Railway, Garden Reach,
Calcutta-43.
2. Divisional Railway Manager, South Eastern
Railway, Khurda Road, P.O./P.S.Jatni, Dist.
Puri.
3. Divisional Personal Officer, South Eastern
Railway, Khurda Road, P.O./P.S.Jatni, Puri

.... Respondents

For the Applicant. ... M/s. M.M.Basu &
R.K.Nath

For the Respondents .. M/s.D.N.Misra, Standing Counsel
Railway, S.C.Samantray &
P.Mohanty.

~~For the Respondents~~ - - - - -

C O R A M :

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

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

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1. Whether reporters of local papers may be
allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *ND*
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 the Administrative Tribunal's Act, 1985 the Petitioner prays that the family pension be ordered to be released in favour of the Petitioner and also opposite party Nos.2 and 3 be directed to finally withdraw the provident Fund deposit of the husband of the petitioner and to pay the same to the Petitioner and also the amount due under the death -cum-retirement gratuity be released in favour of the Petitioner including Group Insurance amount and further more it is prayed that Opposite party No.2 and 3 be directed to appoint Astrid Hatton daughter of the deceased employee and that of the Petitioner in a suitable post for which she is found suitable.

2. Shortly stated, the case of the Petitioner is that she is the widow of one Lewallyn Ethelbert Hatton who was during life time, a driver under the South Eastern Railway and within 'Grade-C'. Lewellayn Ethelbert Hatton died on 30th May, 1988 leaving behind the Petitioner (his wife and 6 children) out of which 4 are daughters and 2 are sons. The Petitioner made an application to the Competent Authority for releasing the family pension in her favour and to pay her the amount due under the Group Insurance Scheme and Provident Fund which was deposited by Lewellyn Ethelbart Hatton. The Petitioner also prayed to the Competent Authority that the D.C.R.G. be paid to

the Petitioner and other legal heirs. This request of the Petitioner was not acceded to by the Competent authority.

In addition to the above the petitioner inter-alia prayed before the Competent authority to appoint the daughter of the Petitioner namely Astrid Hatton in a suitable post on compassionate grounds. These request not having been acceded to the petitioner has come up with this application with the aforesaid prayer.

3. In their counter the Opposite parties maintained that according to rules the Petitioner is not entitled to get the amount due under Group Insurance Scheme and Provident Fund because the Competent authority has to strictly go by the nomination made by Late L.E. Hatton and the Petitioner not being one of the nominees, she is not entitled to the amount claimed by her towards G.I.S. and Provident Fund. It is further more maintained that, so far as the D.C.R.G. is concerned, the deceased not having nominated any person, the competent authority is unable to disburse the amount in favour of the person who is legally entitled to the same. As regards giving appointment to the daughter, it is maintained by the Respondents that there are 5 children and there being disputes in regard to the person who should be appointed whether the son or a daughter, the competent authority is placed in between the horns a dilemma as to who should be given the job.

4. We have heard Mr. M.M. Basu, learned Counsel for the Petitioner and Mr. D.N. Misra, learned Standing Counsel for the

Railway Administration at some length. After perusing the pleadings of the parties and relevant documents we are of opinion that the family pension be released in favour of the petitioner i.e. widow of the deceased Jana Maria Hatton. So far as G.I.C. and Provident Fund money is concerned Mr. D.N. Misra, learned Standing Counsel invited our attention to Rule 14(a) (91) (2) of the G.I.S. Rules, 1968 and submitted that the Railway authority had no option but to strictly go by the provisions contained in the aforesaid rules. The deceased not having nominated the petitioner entitling her to the said amount the Railway Authority had no other option but to pay the amount to the nominee elected by the deceased. We have given our careful consideration to the arguments advanced by Mr. D.N. Misra and we are of opinion that the amount under the G.I.S. Scheme and Provident Fund be paid to the persons who have been nominated by deceased Lewellyn Ethelbert Hatton. So far as D.C.R.G. is concerned we would direct that the concerned authority may act on the certificate granted by the Tahasildar, Bhubaneswar forming subject matter of Misc. case No. 259/88-89 contained in Annexure 'C'. The amount under this head be disbursed to the legal heirs mentioned in the certificate in equal share.

5. As regards giving appointment on compassionate grounds either to the daughter or to the son we would leave the matter to the discretion of the Competent Authority. It is very difficult for the petitioner and her children to sustain their livelihood without any income. We would therefore direct that the Competent authority may consider

this part of the prayer of the petitioner and give suitable appointment on the companssionate ground (either to son or the daughter) who is found to be suitable.

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

By assent
5/4/89
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MEMBER (JUDICIAL)

B.R.PATEL, VICE-CHAIRMAN

g agree.



Central Administrative Tribunal
Cuttack Bench
5th April, 1989/Mohapad

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VICE-CHAIRMAN