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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: C U T T A C K .

O.A. No.400 OF 1988.

Date of decision - December 6, 1989.

Khulana Pahi,
W/o Late Alekh Prasad Pahi,
Village & P.O. Jakhapura,
Via- Dangadi, P.S.Sukinda,
District-Cuttack.

... .. Applicant

Versus.

1. Union of India represented through the Divisional Personnel Officer, South Eastern Railways, Khurda Road Division, At & P.O. Jatni, Dist-Puri.
2. District Engineer, South Eastern Railways, Cuttack, At, P.O. & District-Cuttack.
3. Benudhar Pahi, s/o Late Baishnab Pahi, Village & P.O. Jakhapura, Via- Dangadi, P.S.Sukinda, District-Cuttack. Working as Gangman in the name of Alekh Prasad Pahi.

... .. Respondents

For the Applicant - M/s. M.K.Mallik and P.K.Biswal
 For the Respondents - Mr. R.Ch.Rath, Standing Counsel (Railways).

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THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SEN GUPTA, 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 ? No.
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T .

N. SEN GUPTA, MEMBER (JUDICIAL).

In this application the applicant claims to be the widow of one Alekh Prasad Pahi who admittedly worked as a casual Khalasi (Gangman) under the Permanent Way Inspector (PWI) of Jajpur-Keonjhar Road posted at Jakhpura railway station. The applicant has averred that Alekh Pahi died on 17.12. while in service. She made applications to the concerned authority for appointing her on compassionate ground but those applications were proved futile, that is why she has come to this Tribunal for the relief of suitable appointment under the Rehabilitation Scheme and for another relief making an allegation that the third respondent Benudhar Pahi personating himself as Alekh Prasad Pahi has drawn salary payable to Alekh Pahi for all these years and those amounts be refunded to her as compensation.

2. A number of grounds have been set out in the counter filed by the respondents 1 and 2 in opposition to the claim of the applicant, however, only two are relevant for the purpose of the present order, firstly, the delay in approaching the authorities and secondly, not having exhausted all the remedies available to her in the department. In elaborating the second ground it has been alleged in paragraph-7 of the counter that after receipt of a claim petition from the applicant through her Lawyer in February, 1988, she was asked to produce documents in support of

Sen Gupta
6.12.87

(11)

her claim. They have also taken the plea that a person by the name Alekh Pahi is still working and he is now attached to that organisation where the applicant alleges Alekh Pahi to have been working.

3. We have heard Sri M. Mallik for the applicant and Sri R.C.Rath for the respondents 1 and 2 and have perused the documents produced by the parties. During the course of arguments Sri Mallik says that Alekh Pahi, whose widow, the applicant, claims to be ^{was} working since 1972 till his death on 17.12.79. But Annexure-R/2 produced by the respondents 1 and 2 shows as if Alekha entered into the work or service on 3.12.79 which is suggested ~~to be~~ an apparent fraud. Sri Mallik says that the person responsible for the fraud is respondent No.3 to the present application. Sri Rath has drawn our specific attention to the averments in para-7 of the counter and has vehemently contended that as the applicant had not exhausted the remedies available to her and did not comply with the request of the department to produce documents before the concerned authority for enquiry into the genuineness of her claim, the application is really hit under section 20 of the Administrative Tribunals Act, 1985. Having heard the learned counsels, we are satisfied that there is much substance in the argument of Sri Rath as we find from the documents that the department had shown its willingness to enquire into the claim of the applicant and then reach its own conclusion.

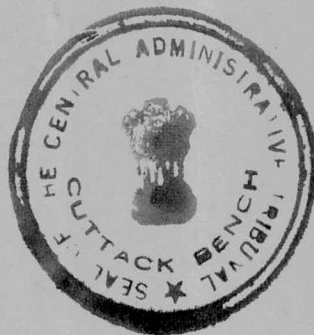
4. In view of these facts, we are inclined to dispose of this application by making an order that the applicant should produce all the relevant evidence and documents in support of her claim before the concerned departmental authorities i.e. before

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respondent No.2 who would enquire into and dispose of the matter within two months from the date of receipt of the documents from the applicant. The respondent No.2 should intimate the applicant the date for production of documents by her (applicant) within two months from the date of receipt of a copy of the judgment.

5. The application is accordingly disposed of. No costs.



M. S. Gupta 6.12.89
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Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN.

I agree.

B. R. Patel
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Vice-Ch