

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 142 of 1994

Date of decision: 08.09.1994

Ichhabati Bhutia

Applicant(s)

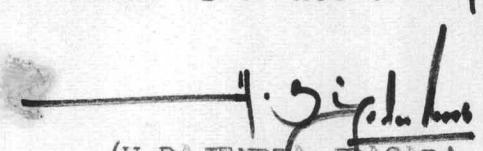
Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? **No**
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? **No.**


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 142 of 1994

Cuttack this the 8th day of September, 1994

C O R A M:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

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Smt. Ichhabati Bhutia
W/o. Late Shri Hari Bhutia
At: Brundadeipur
Po: Jenapur
Dist: Jajpur

Applicant/s

By Advocate: M/s. S. K. Mund,
D. P. Das &
J. K. Panda

Versus

1. Union of India represented through
General Manager, South Eastern Railway
Garden Reach, Calcutta
2. Chief Project Manager
South Eastern Railway,
Chandrasekharpur
Bhubaneswar
Dist: Khurda
3. Divisional Engineer (Regirding)
Birupa,
Cuttack

Respondent/s

By Advocate: M/s. L. Mohapatra
D. N. Mishra,
Standing Counsel
(Rly. Administration)

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O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): Shri Hari Bhutia was appointed a casual khalasi on 3.7.1972 and deployed as Stores Watchman in the Office of the Bridge Inspector (Regirding), Birupa in S.E. Railway, on 3.7.1972. He attained temporary status on 4.7.1993, "confirmed as such", and passed away, unregularised, on 8.6.1991. His widow, Smt. Ichhabati

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Bhutia, has filed the present application seeking the grant of family pension and a compassionate appointment in her favour. The grounds for her application are that :

- 1) the State has a legal obligation to employ her;
- 2) the Chief Personnel Officer, S.E.Railway has not assigned any reasons while rejecting her prayer for compassionate appointment. According to her, the rejection is arbitrary and unjustified.

2. The respondents, in their counter state that Shri Hari, who was appointed Casual Stores Watchman on 3.7.1972 in the Office of the Bridge Inspector (Regirding), Birupa, may not be the same person as the husband of the present applicant inasmuch as the said Hari had been granted temporary status ^{only} on 1.1.1981, whereas Hari Bhutia, according to the statement of the present applicant, got temporary status on 4.7.1973. The respondents add that the said Hari was never at any time given a regular posting, nor was he confirmed in any post as claimed by the applicant. The case of the respondents is that the scheme governing appointments on compassionate grounds is not applicable to casual workers nor even to those who attain temporary status, but only to regular employees.

3. Leaving aside minor discrepancies in dates, or even the real identify of the applicant's deceased husband ^{vis}-a-_A the Hari of respondents' counter, the more important question is whether the rules

— T. G. J. Anderson —

governing compassionate appointments are really applicable to casual employees of the Railways. According to the rules framed by the Railway Board, a casual labourer employed by the Railway becomes entitled on attaining temporary status to certain specified facilities. These do not include family pension or appointment to the dependents of the deceased temporary status employees on compassionate grounds. In this connection, the findings of the Hon'ble Supreme Court in Ram Kumar and others vs. Union of India and others (AIR 1988 SC 390) are of relevance. In para 12 of the judgment Their Lordships observe as under:

" 12. It is the stand of the learned Additional Solicitor General that no pensionary benefits are admissible even to temporary railway servants and therefore, that retiral advantage is not available to casual labourer acquiring temporary status. We have been shown the different provisions in the Railway Establishment Manual as also the different orders and directions issued by the Administration. We agree with the learned Additional Solicitor General that retiral benefit of pension is not admissible to either category of employees.."

Such being the settled position, it would be impermissible for this Tribunal to extend the provisions of the scheme to unentitled cases. In stating this, I am particularly guided by the following observations of the Hon'ble Supreme Court in the case of LIC of India vs. Asha Ramchandra Ambekar and Another (Judgment To-day 1994(2) SC 183):

— T. Ojha —

" 10. Of late, this Court is coming across many cases in which appointment on compassionate ground is directed by judicial authorities. Hence, we would like to lay down the law in this regard. The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration..."

" 11... Yielding to instinct will tend to ignore cold logic of law. It should be remembered "law is the embodiment of all wisdom". Justice according to law is a principle as old as the hills. The Courts are to administer law as they find it, however inconvenient it may be..."

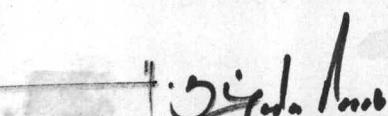
" 13... The Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however hard the case may be, it should never be done.."

"15... It is true that there may be pitiable situations but on that score, the statutory provisions cannot be put aside.."

Under the circumstances stated above and in view of the unambiguously laid-down law by the highest Court in the land, I do not find it possible to allow this application even if the condition of the applicant is undoubtedly difficult due to the untimely demise of her husband.

The application is therefore, disallowed..

No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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B.K.Sahoo//