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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 352 OF 1994
Cuttack this the 26th day of April, 2000

Smt. H. Sundaray

...

Applicant(s)

-VERSUS-

Union of India & Ors.

...

Respondent(s)

(FOR INSTRUCTIONS)

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath SCM
(SOMNATH SCM)
VICE-CHAIRMAN *26/4/2000*

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.352 OF 1994
Cuttack this the 26th day of April, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

...

Smt. Harasamani Sundaraya
W/o. Late Sundera Sundaraya
At/PO: Kudiary, PS: Jatni
Dist: Khurda

... Applicant

By the Advocates

Mr. P.C. Mohapatra

-VERSUS-

1. Union of India represented through
its General Manager, South Eastern
Railway, 11, Garden Reach Road
Calcutta-700 043
2. Divisional Personal Officer
South Eastern Railway, Khurda Road
At/PO/PS:Jatni, Dist: Khurda

... Respondents

By the Advocates

Mr. D.N. Mishra
Standing Counsel
(Railways)

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MR. SOMNATH SOM: VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is the widow of deceased railway employee Surendra Sundaraya has prayed for direction to Divisional Personnel Officer (Res.2) to pay death compensation with interest to her forthwith.

2. Applicant's case is that her husband was a good Driver and he was booked to move by Coromandal Express as a pilot on 27.7.1984 from Khurda Road to Waltair. Accordingly applicant's husband went to Waltair and lost his life due to heavy running and exertion. The Medical Certificate is annexured to the O.A. as Annexure-1 After the death of the applicant's husband, his son was given appointment under compassionate ground. The applicant made several representations to the authorities to give her death compensation, but without any result; that is why she has approached this Tribunal with the prayers referred to earlier.

3. Respondents in their counter have stated that the applicant's husband was never a goods driver. He was only booked to learn road duties in between Khurda Road to Waltair by 141 Up and 142 Down Coromandal Express from 22.7.1984. Respondents have further stated that only after successful completion of learning period a person qualifies for regular running of trains. On 27.7.1984 applicant's husband left Khurda Road by Howrah Madras Coromandal Express and reached Waltair on 28.7.1984 at 6.00 A.M. While arriving at Waltair he suffered from heart attack and passed away. Respondents have stated that from the Death Certificate enclosed by the applicant it is clear that death of her husband was due to

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heart failure and the same was natural death which might have occurred while on duty or off duty, and in view of this it cannot be said that the death occurred due to heavy running and exertion in the train. In view of the fact that the applicant's husband was ^{not} booked on 28.7.1984 to move to Waltair and also on the ground that ^{death} of applicant's husband was a natural death the respondents have opposed the prayer of the applicant. They have also stated that the Application is beyond the period of limitation having been filed 10 years after the death of the applicant's husband.

4. Heard the arguments. Applicant's claim for death compensation is based on her assertion that her husband was on duty on 27.7.1984 from Khurda Road to Waltair and he died ~~to~~ due to heavy exertion at Waltair on 28.7.1984. Respondents in their counter have stated that the applicant was not on duty in Coromandal Express on 28.7.1984 from Khurda Road to Waltair. They have also stated that he was not a driver at that time. He was ^{assigned to} only ~~learning~~ road duties, that too on 22.7.1994 and not on 27.7.1984. This averment of the respondents has not been denied by the applicant through any rejoinder, even though counter has been served on the applicant on 23.7.1994. From the Death Certificate annexed by the applicant herself it is clear that the death of her husband was a natural death. Therefore, contention of the applicant that her husband while on duty due to heavy exertion and heavy duties performed by him cannot be accepted. Moreover the Tribunal is also not empowered to award death compensation. For death compensation claim the applicant has to approach the Railway Claims Tribunal.

In this view of the matter, we hold that the application is without any merit besides being barred by limitation, and therefore, the same is rejected, but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//