

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No.505 of 1994

Date of Decision: 17.2.1995

Ananta Panda & another

**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

*Parasuram Sahu*  
(N. SAHU)  
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 505 of 1994

Date of Decision: 17.2.1995

C O R A M:

THE HONOURABLE MR.N. SAHU, MEMBER (ADMINISTRATIVE)

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1. Sri Ananta Panda,  
S/o. Late Babana Panda  
At: Jamunapatna,  
Po: Dulkapatna  
Dist: Jajpur

2. Smt. Malati Panda,  
W/o. Late Babana Panda  
At: Jamunapatna  
Po: Dulkapatna  
Dist: Jajpur

... Applicant/s

By the Advocate: M/s. S.K. Mund  
D.P. Das &  
J.K. Panda  
S.N.B. Ray

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

.. Respondents

For the Respondents: M/s. L. Mohapatra for R-1 &  
M/r. Ashok Mohanty for R-2

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O R D E R

MR.N.SAHU, MEMBER (ADMINISTRATIVE): This is an application under  
Section 19 of the Administrative Tribunals Act, 1985,  
praying that the Applicant No.1, Ananta Panda, be  
provided with an appointment befitting his educational  
qualifications under the Rehabilitation Assistance  
Scheme. He has also prayed for payment of arrears of  
gratuity. As plural remedies cannot be pursued in

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the single application, the 2nd relief cannot be considered.

2. The brief facts are that Late Babana Panda was appointed on 28.10.1969, as Casual Khalasi and posted under Bridge Inspector, Birupa Bridge, Cuttack, on 4.7.1973. From temporary status he was confirmed. Untimely he died on 3.10.1989. He worked under the Bridge Inspector, Birupa Bridge, till the date of his death. In view of the penury <sup>of the family</sup> on account of untimely death of the father, the applicant <sup>- son</sup> Ananta Panda, approached the Divisional Engineer (Respondent 3) for an appointment on compassionate ground. It is claimed that the family became destitute on account of the sole bread winner's untimely death. He filed a representation on 18.6.1992 which was answered by the letter dated 24.5.1993 (Annexure-1 to the petition) by which the prayer for appointment on compassionate ground was <sup>negatived</sup> ~~negatived~~ by the Chief Personnel Officer. It was only on 24.5.1994 that the applicant got the copy of the letter. It is claimed that the rejection was arbitrary and without any justification, particularly, when the applicant ~~has~~ the qualification for a suitable appointment.

3. The counter-affidavit cites the Railway Board's letter No.E (NG)/11/84/CL dated 31.12.1986, stipulating the provision relating to compassionate appointment in case of casual labour with temporary status who died in harness. In case of extreme hardship meriting special consideration, the instru-

ctions convey that the General Manager can exercise his personal discretionary power in giving appointment to an eligible and a suitable ward of such casual labour on compassionate grounds. The claim of the petitioner was rejected on the ground that the competent authority did not find any reason to believe that the family is through extreme hardship meriting special consideration.

4. Annexure-1, the impugned rejection order did not recount any reasons for the rejection. Secondly, the order was communicated by the Senior Personnel Officer which does not say that the rejection is with the approval of the competent authority, i.e. the General Manager or somebody who is properly delegated to perform this function. Accordingly this Court directed Respondent 1 on 19.12.1994, to dispose of the representation of the petitioner within 45 days from that date failing which it would be deemed that the General Manager had no reasons to offer and the Tribunal would consider the application on merits. Two more opportunities on 3.2.1995 and 13.2.1995, were given, but still the reasons behind the rejection could not be produced and finally even today no further light was thrown on this. Shri T.Ratho, learned counsel for Respondents simply sought time which is rejected.

5. Since the applicant's representation is not disposed of as per the direction of this Court by its Order dated 19.12.1994, I have no other alternative but to hold that there is no basis for rejecting the claim of the applicant for compassionate appointment and

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the impugned rejection order dated 24.5.1993 is arbitrary

6. The facts reveal that Baman Panda died after rendering 20 years of service as a Khalasi with temporary status. The severest financial strain that his family is undergoing has been highlighted at the time of hearing. The counter affidavit also does not in any way contradict this position. Para 9 of the counter no doubt states that the competent authority did not find any reason to believe the present condition of hardship. But here again, in spite of four opportunities, the General Manager could not place before me the records as to on what basis such a conclusion has been arrived at. After hearing the arguments of rival counsel, I am convinced that the dependents of the railway khalasi who died in harness are even today financially in a pitiable condition. There is no evidence of any other source of income to support the family. It appears to me that the applicant should have been picked up as a case of extreme hardship for compassionate appointment within the frame-work of Railway Boards' letter No.E(NG)(11)/84/SL/28 dated 20.1.1987. This was one case where the General Manager could exercise his personal discretionary power for giving appointment. I would therefore, allow the petition and direct the General Manager, South Eastern Railway, Garden Reach, Calcutta, to consider the claim of the applicant for compassionate appointment

*for*

to a suitable post in the form of engagement as a casual labourer or as a substitute and pass orders within a period of two months from the date of receipt of a copy of this order. He will however examine the fulfilment of other criteria. The delay caused in the disposal of the application from the date it was submitted till the date of this order will be excluded if there is a reckoning about the age limit in the appointment. No costs.

*Kanashasahu.*  
(N. SAHU)  
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//