

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.595 of 1994

Cuttack this the 19th day of September, 1995.

CORAM:

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

Kumei,
W/o. late Samo Bhuyan,
S/o. Smt. Bichitra Bastia,
At. Jatni, Hata Bazar,
Po. Jatni, Dist. Khurda.

... Applicant

By the Applicant ... M/s. D.R. Pattnayak, C.R. Kar,
K.C. Pradhan, S. Mallik,
B.D. Padhi, Advocates.

Vrs.

1. Union of India represented by
its General Manager,
Garden-reach, West Bengal.

2. D.R.M., S.E. Rly,
Khurda Road, At/Po. Jatni,
Dist. Khurda.

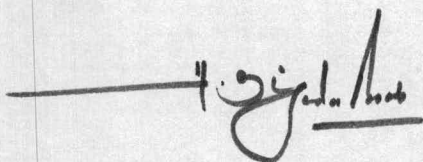
3. D.P.O., S.E. Railway, Khurda Road,
At/Po. Jatni, Dist-Khurda.

... Respondents

By the Respondents ... M/s. B. Pal, O.N. Ghosh, Standing counsel.


ORDER

H. RAJENDRA PRASAD, MEMBER (ADMN.) The husband of the applicant, Samo Bhuyan, worked as a Gangman under the permanent Way Inspector, Khurda Road Division, between June, 1970, and January, 1982. He was employed on casual basis for a total period of 11 years, 6 months and 7 days. He had duly acquired a temporary status,



and passed away on 1st January, 1982, while working on the same casual basis, the death having occurred before his turn came up for the regularisation of his services. The applicant, who is the widow of the said Samo Bhuyan, represented to the authorities for a compassionate appointment in a Gr. 'D' post. According to her she submitted representations on 24th September, 1990, 24th November, 1992, 10th June, 1993, 12th December, 1993 and 8th March, 1994. The respondents state that none of the representation are traceable in their records. She was paid an amount of Rs.1,986/- towards the D.C.R.G. payable to all casual employees.

2. The Respondents state that compassionate appointments can be given only in cases where a casual labourers die in an accident while on duty, and if the wards or the legal heirs of such deceased workmen are entitled to compensation under Workmen's Compensation Act, 1923. This order came into effect from 16.7.1984. Subsequently, some discretionary power given to the General Managers to consider such appointments in cases where the deceased employee had duly acquired temporary status and died in harness provided the case of this type merited special consideration on account of extreme hardship. These orders were applicable from 20th November, 1992, onwards. The respondents, therefore, state that Samo Bhuyan having passed away on 1.1.1982, the benefit of the above circulars cannot be given to his heirs retrospectively.



3. In view of the positions stated above, the present case does not qualify for the relief prayed for, and the petition is liable to be dismissed. However, a number of cases of this type have been referred to Hon'ble Chairman for constituting a larger bench to decide certain basic questions of law since there exist considerable divergence between the extant departmental rules, a judgment delivered by the Hon'ble Supreme Court, and a number of cases decided by the various Benches of this Tribunal. The said reference is awaiting further development. The present case bears a striking similarity to some of the cases referred to the Hon'ble Chairman for constitution of a larger bench.

4. The Original Application is disposed of as lacking merit in view of rules explained by the respondents. However, liberty is given to the applicant to agitate her grievances afresh, if so advised, when the decision of the larger bench in analogous cases is pronounced.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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