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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH:CUTTACK.

ORIGINAL APPLICATION NO. 305 OF 1995

Cuttack, this the 22nd day of July, 1997

Smt.Kuna Dehury ... Applicant

Vrs.

Union of India and others ... Respondents

(FOR INSTRUCTIONS)

1) Whether it be referred to the Reporters or not? Yes.

2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? NO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
22.7.97

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.305 OF 1995
Cuttack, this the 22nd day of July, 1997

C O R A M:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

....

Smt.Kuna Dehury,
aged about 47 years,
W/o late Giridhari Dehury
Vill-Thengarh,
P.O-Bari Thengarh,
P.S-Badachana,
District-Jajpur ..... Applicant

Vrs.

1. Union of India,
represented by the Secretary to
Government of India,
Ministry of Railways,
At Rail Bhawan,
PO-New Delhi-110 001.

2. The General Manager,
South Eastern Railway,
At-Garden Reach,
PO-Calcutta-700 023 (West Bengal).

3. The Divisional Railway Manager,
Khurda Road Division,
South Eastern Railway, Khurda Road,
PO-Jatni-752 050,
Dist.Khurda.

4. The P.W.I., Dhenkanal,
Khurda Road Division,
South Eastern Railway,
At/PO/PS/Dist.Dhenkanal .... Respondents.

Somnath Som
22.7.97

For Applicant - M/s N.J.Singh, J.K.Nayak &
N.R.Routray.

For Respondents - M/s. B.Pal & O.N.Ghosh.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative

Tribunals Act, 1985, the applicant has prayed for compassionate appointment of her son under the respondents in the post of Gangman (Class IV).

2. The case of the applicant is that her husband Giridhari Dehury was appointed in May, 1968 and was working as Casual Gangman under P.W.I., S.E.Railway, Cuttack. He acquired temporary status after putting in the required number of days and was sent for medical examination on 4.4.1991. According to the applicant, he was found medically fit vide report at Annexure-A/ 2. His medical examination was done with a view to taking him in for regular employment under the respondents. But before his services could be regularised, he passed away on 30.1.1992. The death certificate is at Annexure-A/3. The case of the applicant is that her husband left behind the applicant and two sons. The family did not have any landed property or any source of income. The husband of the applicant belonged to Scheduled Tribe and to that extent he had obtained certificate from the Additional Tahasildar. The local Sarpanch has also given a certificate at Annexure-A/5 that the family is in indigent condition. The petitioner applied on 25.6.1992 and 20.12.1993 to appoint her son under the Railways on compassionate ground, but no orders have been passed on her representations and that is how, she has come up with the aforesaid prayer.

3. The respondents in their counter have stated that the applicant's husband worked originally as a Monsoon Patrol Man for different periods in 1988 and 1989. He worked upto August 1991 in different spells and thereafter he remained absent from duty till his death on 30.1.1992. The respondents'

case is that as the applicant's husband was a casual labourer whose employment was casual, intermittent and sporadic for short periods, he was not a Railway employee. It is also submitted that after the death of the applicant's husband, the applicant reported to P.W.I., Dhenkanal,about her husband's death, but did not apply for employment assistance for her son and as the death has occurred in 1992, the relief is barred by time. The respondents have relied on the case of Umesh Kumar Nagpal v. State of Haryana and others, JT 1994 (3) SC 525, in which the Hon'ble Supreme Court have held that compassionate appointment is not a vested right which can be exercised at any time in future and on that ground, they have opposed the prayer.

3. The applicant has filed a rejoinder in which she has repeated that her husband was a Gangman with temporary status. The orders of the Railway Board for compassionate appointment also cover casual labourers and in view of the highly indigent condition of the family, the prayer should be allowed.

4. I have heard the learned lawyers for the parties and have also perused the record.

5. From the material on record, it does appear that the husband of the applicant was working under the respondents as a Gangman. There is some controversy as to whether temporary status was conferred on him. The case of the applicant is that temporary status was conferred on her husband and he was also

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medically examined for regular appointment. The respondents, on the other hand, have taken the stand that the applicant's husband was a casual labourer and he was also not screened for the purpose of regularisation. The second point of the applicant is that she had applied on two occasions immediately after the death of her husband for compassionate appointment of her elder son, but no orders on the representations have been passed. The third aspect is that with the death of her husband, the applicant's family is in dire financial difficulty. This is borne out by the certificate given by the Sarpanch. In consideration of the facts of this case, I feel that the least that the respondents can do in this matter is to consider the representations of the applicant and take a view on the prayer for compassionate appointment. The applicant, according to her, did submit two representations which, according to the respondents, were not received by them. In consideration of this, it is ordered that copies of the two representations along with copy of this Original Application be sent to the respondents for them to consider the representations and pass appropriate order on the representations within a period of three months from the date of receipt of copy of this order and intimate the same to the applicant within fifteen days thereafter.

6. With the above observation and direction, the Original Application is disposed of. There shall be no order as to costs.

Somnath Som

(SOMNATH SOM)
VICE-CHAIRMAN 22.7.97

ANN/PS