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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 354 OF 1995  
Cuttack, this the 18<sup>th</sup> day of June, 1997

Narendra Kumar Biswal ..... Applicant.

-versus-

Union of India & 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 18.6.97

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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.**

ORIGINAL APPLICATION NO.354 OF 1995  
Cuttack, this the 18th day of June, 1997

**CORAM**

**HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN**

...

Narendra Kumar Biswal,  
son of late Akrura Biswal,  
At-Tarini, P.O-Kaluparaghat,  
District-Puri, Orissa ... APPLICANT.

Vrs.

1. Union of India, represented  
through the Secretary,  
Railway Board, Rail Bhawan,  
New Delhi.
2. General Manager,  
South Eastern Railway,  
Garden Reach, Calcutta-43,  
West Bengal.
3. Divisional Railway Manager,  
South Eastern Railway,  
Khurda Road Division,  
At/P.O-Jatni, District-Khurda.
4. Divisional Personnel Officer,  
South Eastern Railway,  
Khurda Road Division,  
At/P.O-Jatni, District-Khurda ... RESPONDENTS.

Advocates for applicant - M/s. D.S.Misra,  
S.Behera,  
S.Mohanty,  
K.K.Misra.

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

S.SOM, VICE-CHAIRMAN

O R D E R

In this application under Section 19 of

*John*  
*18.6.97*



his death. From Annexure-1, which is an order dated 30.9.1981 sanctioning leave to Akrura Biswal, father of the petitioner, it appears that he was a C.P.C.Gangman, Commission i.e. Gangman with Central Pay Scale. The petitioner has not produced any paper to prove that his father was ever granted temporary status and was absorbed in the regular establishment against a vacant post. The respondents, on the other hand, in their counter have mentioned that the petitioner's prayer for regularisation of the services of his father under the Railways had been made fourteen years after the death of the father. The petitioner in paragraph 2 of his rejoinder has also admitted that his father died as a casual labourer working as Gangman. The learned lawyer for the petitioner has drawn my attention to the decision of the Hon'ble Supreme Court in the case of Prabhavati Devi v. Union of India and others, 1996(1) Supreme 14. That was a case in which their Lordships of the Hon'ble Supreme Court set aside the order of Patna Bench of the Tribunal and allowed family pension to the widow of a deceased Railways employee who was working as a substitute when he died. According to the definition of "substitute" contained in Paragraph 1512 of Indian Railway Establishment Manual, Volume I (Revised Edition 1989), substitutes are persons

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engaged in Indian Railway Establishments on regular scales of pay and allowances applicable to posts against which they are employed. These posts fall vacant on account of a railway servant being on leave or due to non-availability of permanent or temporary railway servants and which cannot be kept vacant. In other words, a substitute is appointed against a specific post in the regular establishment of the Railways. In the case of the petitioner's father, he continued as a casual Gangman and was never regularised in service. It is also not clear from the averments in the application, whether as casual Gangman his service was continuous or with breaks. Therefore, the above decision of the Hon'ble Supreme Court does not go in any way to support the prayer for regularisation of the services of the petitioner's father. The petitioner's father died while working as casual Gangman in 1981. The prayer for regularisation has come <sup>up</sup> in this application fourteen years after the death of the petitioner's father. As such I hold that the prayer is without any merit and the same is rejected.

2. In the result, therefore, the application fails and is rejected, but under the circumstances, without any order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN 18.6.9