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CENTRAL ADMINISTRATIVE TRIBUNAL,
Cuttack Bench, Cuttack.

ORIGINAL APPLICATION NO. 288 OF 1996

Cuttack, this the 23rd day of June, 1997

Rabindra Kumar Sahu Applicant.

Versus

Union of India and others ... Respondents.

FOR INSTRUCTIONS.

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

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
23.6.97

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
Cuttack Bench, Cuttack.**

ORIGINAL APPLICATION NO.288/96
Cuttack, this the 23rd day of June, 1997

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HON'BLE SRI SOMNATH SOM, VICE-CHAIRMAN.

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Rabindra Kumar Sahu,
aged about 26 years,
son of late Godavari Sahu,
resident of Sarala Padara,
PO-Balugaon, P.S-Balugaon,
District-Khurda

.....

Applicant.

-versus-

1. Union of India,
represented through its Secretary,
Department of Railways,
New Delhi.

2. Divisional Railway Manager,
South Eastern Railways,
Khurda Road Division,
District-Khurda.

3. Senior Divisional Personnel Officer,
South Eastern Railways,
Khurda Road Division,
District-Khurda.

Respondents.

Advocates for applicant -

M/s.S.S.Das

& B.R.Das

Advocates for respondents -

M/s.D.N.Misra

O R D E R

SOMNATH SOM, VICE-CHAIRMAN.

In this application under Section 19 of the

Administrative Tribunals Act, 1985, the petitioner has prayed for compassionate appointment under the respondents on account of death in harness of his father on 3.12.1992.

2. In this case, in spite of giving a large number of adjournments, counter has not been filed. Sri D.N.Misra, learned counsel appearing on behalf of the

respondents had indicated in Court on 4.4.1997 that he would file counter within ten days. Thereafter, three more adjournments were given. On 14.5.1997 learned counsel for the respondents submitted that the matter might be listed for hearing on admission and final disposal on 18.6.1997 and in the meantime he would file counter with copy to the learned lawyer for the petitioner. But when on 18.6.1997 the matter was taken up for hearing counter had not been filed. The learned counsel for the respondents wanted further two weeks time for filing counter. In matters of compassionate appointment, Hon'ble Supreme Court have indicated that such cases should be decided early. In view of this, the prayer for giving further time for filing counter was rejected and the matter was taken up for consideration.

*swm:mdm
23.6.97*
3. I have heard the learned lawyer for the petitioner, Sri S.S.Das, and the learned counsel for the respondents, Sri D.N.Misra. The facts of this case fall within a small compass and can be briefly stated.

4. According to the application, petitioner's father was working as a Gangman in South Eastern Railway from 28.8.1986. He unfortunately suffered from cancer and passed away on 3.12.1992 leaving behind his widow and only son, the

applicant. Case of compassionate appointment was taken up and the widow, Subarna Bewa, was directed in notice dated 5.5.1993 (Annexure-1) to appear in the office of D.R.M. on 19.5.1993 along with documents, etc., in connection with employment assistance. At Annexure-2 is a certificate from Tahasildar, Banpur, indicating that the petitioner's father, the deceased Railways employee had no landed property except a thatched house in his native village Sarala Padara. There is another certificate dated 23.1.1993 from Tahasildar, Banpur, indicating that the deceased Railways employee left behind his widow, Subarna Bewa, and son, the present applicant who, on the date of the certificate, was twenty-three years old. The prayer for compassionate appointment was rejected in order dated 10.2.1994 (Annexure-3) in which it has been mentioned that "request for extending employment assistance has been examined, but not considered by the competent authority." Thereafter the petitioner has come up in the present application.

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5. I have carefully perused the record and have also considered the submissions of the rival counsels. There is no material on record to controvert the averments of the applicant regarding death of his father, relationship of the applicant with the deceased Railways employee, and landlessness of the surviving family. In any case, the

certificates given by the Tahasildar go to support the contention that the widow and the son, the present applicant, are the only surviving members of the family of the deceased Railways employee and the family has no land. Learned lawyer for the petitioner has submitted that as the family is in indigent circumstances, the respondents should have provided compassionate appointment to the petitioner. He has further submitted that under the relevant rules, copy of which is at Annexure-4, compassionate appointment can be provided even in cases where the employees while in service develop serious ailments like heart diseases, cancer, etc., or otherwise become medically decategorised for the job they are holding. In this case, the petitioner's father suffered from cancer and passed away on 3.12.1992 and therefore, compassionate appointment should have been provided. He has also submitted that the order rejecting the prayer for compassionate appointment is a non-speaking one. It simply says that the prayer was not considered by the competent authority. On this ground also, the learned lawyer for the petitioner has challenged Annexure-3. Learned counsel for the respondents has submitted that the petitioner's father was a casual worker and as such the son, the present petitioner is not entitled to be considered for compassionate appointment. I am unable to accept this contention because from Annexure-1, I find that the widow, i.e., the mother

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of the petitioner was called upon to appear before the D.R.M. for consideration of her case for compassionate appointment along with certain other similarly placed persons. This notice has been issued to Permanent Way Inspector, Berhampur. This would go to prove that the petitioner's father was working under Permanent Way Inspector, Berhampur, as has been averred in paragraph 4.1 of the petition. From this notice at Annexure-1, it is also seen that the father of the petitioner has been described as a C.P.C. Gangman, in other words, a Gangman enjoying Central Pay Commission Scale. This would mean that he had been conferred temporary status and was not a daily wage or contingent worker. There is, therefore, no reason why the case of the petitioner could not be considered for giving him compassionate appointment. I find from Annexure-1 that through this letter seven widows of deceased Railways employees and one son of a deceased Railways employee including the petitioner's mother were called upon to appear in D.R.M.'s office on 19.5.1993. This would seem to indicate that there are quite a few such cases pending for consideration, some of which might have been settled in the meantime. In consideration of the facts of the case, it is ordered that the respondents should consider the case of the petitioner within a period of 90 (ninety) days from the date of receipt of this order and provide him appointment on compassionate ground. This direction is subject

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to the condition that the petitioner should be found medically fit for the responsibility for which he will be considered.

6. In the result, the Original Application is allowed in terms of the direction given above. There shall be no order as to costs.

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
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