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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 20 OF 1998
Cuttack, this the 21st day of February, 2000

Smt. Sakila Sahoo and another Applicants

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

at 2.2.00

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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1. Smt. Sakila Sahoo, aged about 50 years, w/o Guria Sahoo, At-Sathuapatna, PO-Marjidapur, Dist.Jajpur.
2. Bidyadhar Sahoo, aged about 35 years, son of Guria Sahoo, At-Sathuapatna, PO-Marjidapur, District-Jajpur

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Applicants

Advocate for applicants - Mr.Niranjan Panda

Vrs.

1. Union of India, represented by General Manager, South Eastern Railway, At-Garden Reach, Calcutta.
2. Chief Project Manager, South Eastern Railway, At/PO-Chandrasekharpur, Bhubaneswar, District-Khurda.
3. Divisional Railway Manager, South Eastern Railway, At/PO/Dist.Khurda.
4. Bridge Regairding Inspector, South Eastern Railway, At/PO/Dist.Cuttack

Respondents

Advocate for respondents - Mr.Ashok Mohanty

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the two petitioners had originally prayed for compassionate appointment to petitioner no.2 and for family pension, gratuity, provident fund and other arrears along with interest. At the time of hearing it has been submitted by the learned counsel for the petitioner that he does not press the prayer for compassionate appointment and in this petition his prayer is limited to payment of family pension, gratuity and other dues, as mentioned in paragraph 8 of the petition.

2. The applicant's case is that husband of applicant no.1 and father of applicant no.2 Guria Sahoo got appointment as Bridge Khalasi in 1967 on casual basis on Mahanadi Bridge at Kendrapara. He was engaged as Casual Khalasi from 24.10.1967 to 23.2.1968, again from 5.11.1977 to 25.3.1972 and from 24.5.1972 to 23.6.1972. The total period spent as Casual Khalasi was 231 days. The applicant has filed a booklet showing his record of service as casual labourer. It is stated that father of applicant no.2 was granted Central Pay Commission scale and had a railway pass. No casual staff is given pass unless he acquires permanent status. It is stated that father of applicant no.2 was given Permanent Construction Reserve (PCR) post in 1981 and got all the financial benefits like permanent staff. Chief Engineer (Construction), S.E.Railway, in his order dated 26.8.1989 directed absorption of Group-D staff against PCR posts in the year 1981. Guria Sahoo passed away due to snake bite on 9.8.1982. This fact was brought to the notice of the authorities, but they did not disburse family pension, GPF dues, gratuity and other financial dues. It is stated that some employees in the construction site of S.E.Railway who are junior in service are getting pension, but applicant no.1 is not getting family pension. On the above grounds the applicants have come up with the prayers referred to earlier.

3. Respondents in their counter have opposed the prayers of the applicant. They have stated that late Guria Sahoo had worked on casual basis from 24.10.1967 to 23.2.1968, 5.11.1971 to 25.3.1972 and from 24.5.1972 to 23.6.1972. The respondents have further stated that the applicants have not given any proof about Guria Sahoo acquiring temporary status. They have stated that he was never regularised in service or absorbed against a PCR post. It is

S. Sahoo

scheme for staff further stated that the grant of temporary status to project / came in the year 1986 as a result of decision of the Hon'ble Supreme Court in Inderpal Yadav's case decided on 18.4.1985 and such temporary status was given with effect from 1.1.1981. Guria Sahoo worked much prior to 1981 and therefore the question of regularisation of his service does not arise. It is further stated that Guria Sahoo was never regularised in service to be eligible for pension. One must have qualifying service for a minimum period of 10 years. There is nothing available on record about conferment of Central Pay Commission scale or even temporary status to Guria Sahoo. It is further stated that Chief Engineer (Construction)'s instruction dated 26.4.1989 provided only to 1.4.1973 for dating back /the date of regularisation of casual labourers who have already been regularised against PCR posts.

~~from 1.1.1973~~ As Guria Sahoo has not been regularised this circular is not applicable to him. It is further stated that as Guria Sahoo was merely a casual labourer upto 1972 and had not been regularised in service or granted temporary status, his family is not entitled to family pension, gratuity, GPF and other dues. On the above grounds, the respondents have opposed the prayers of the applicant.

4. I have heard Shri Niranjan Panda, the learned counsel for the petitioner and Shri Ashok Mohanty, the learned counsel appearing for the respondents and have also perused the records.

5. Respondents have stated that father of applicant no.2 and husband of applicant no.1, Guria Sahoo was engaged as a casual labourer in different spells as mentioned by the petitioners in paragraph 4.1 of the petition and the last spell of casual engagement was upto 23.6.1972. It has been submitted by the learned counsel for the respondents that

the applicant was never engaged as casual labourer after 1972. The record of service produced by the applicants merely shows the employment from 24.10.1967 to 23.2.1968, 5.11.1971 to 24.5.1972 and from 24.5.1972 to 23.6.1972. In another booklet there is merely an entry that his date of initial engagement was 3.7.1972. There is nothing in the record of service that Guria worked from 1972 till his death on 9.8.1982. I have carefully gone through the Original Application in which there is no averment that from 1972 till his death he was working as casual labourer. It is merely mentioned that at the time of his death he was working as a Bridge Khalasi. The applicants have not submitted any record in support of their contention that from 1972 till his death and had been regularised. in 1982 Guria was working as casual labourer/ Similarly, besides the bland assertion that he was granted CPC scale of pay and was also granted temporary status and was later on regularised in service the applicants have not produced any evidence in support of these contentions. The position is well settled that a casual labourer is regularised only after screening and such regularisation is done against a post. The applicants have not produced any order showing that Guria Sahoo was regularised in permanent establishment or against PCR post at any time before his death. As regards grant of temporary status the respondents have rightly pointed out that the scheme of granting temporary status came into force as a result of decision of the Hon'ble Supreme Court in Inderpal Yadav's case in 1985 and the scheme was introduced in 1986 for granting temporary status from 1.1.1981. As Guria Sahoo died in August 1982 prior to decision in Inderpal Yadav's case and introduction of the scheme for granting temporary status to casual labourers, the assertion that he

was granted temporary status obviously cannot be accepted. Thus, the position is that for the period of his engagement under the Railways Guria Sahoo was merely a casual labourer and he was neither granted temporary status nor was regularised in service. Rules relating to family pension provide that if a Railway servant passes away after rendering one year of regular service then the family is entitled to family pension. Thus for being entitled to family pension a casual labourer has to be regularised in a post under the Railways and has to render one year of service. As Guria Sahoo had not been regularised in the permanent establishment, the applicants are not entitled to family pension as also the gratuity. As regards the provident fund the applicants have not made any averment that Guria Sahoo was contributing to provident fund. There is no provision for subscription to GPF by casual labourers. In view of this, the claim for provident fund is misconceived. As regards other dues, the petitioners have not indicated the nature of dues claimed by them. A vague prayer has been made that the other dues should be paid. Therefore, no order is required to be passed in this regard.

6. In the result, therefore, I hold that the Application is without any merit and the same is rejected but without any order as to costs.

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
21.2.2000