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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 21 OF 1998.

Cuttack, this the 24th day of May, 2000.

SMT. PHULA PRADHAN & ANOTHER.

....

APPLICANTS.

VRS.

UNION OF INDIA & ORS.

....

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.*

*J. S. Dhaliwal*  
(J. S. DHALI WAL)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*24/5/2000*

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 21 OF 1998.

Cuttack, this the 24th day of May, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. J. S. DHALIWAL, MEMBER (JUDL.)

Smt. Phula Pradhan, Aged about 55 years, w/o. Damo Pradhan,  
At. Sathua Patna, Po: Marjidapur, Ps. Dharmasala, Dist. Jajpur.

SIBA PRASAD PRADHAN, Aged about 33 years, S/o. Damo Pradhan,  
At. Sathua Patna, Po: Marjidapur, Ps. Dharmasala, Dist. Jajpur.

: APPLICANTS.

By legal practitioner: Mr. Niranjan Panda, Advocate.

- Versus -

1. Union of India represented by General Manager,  
South Eastern Railway, Garden Reach, Calcutta.
2. Chief Project Manager, South Eastern Railway,  
At/Po: Chandrasekharpur, Bhubaneswar, Dist: Khurda.
3. Divisional Railway Manager, South Eastern Railway,  
At/Po/Dist: Khurda.
4. Chief Engineer (Construction) South Eastern Railway,  
Garden Reach, Calcutta.

: Respondents.

By legal Practitioner : M/s. D. N. Mishra, S. K. Panda, Standing  
Counsel (Railways),

S Som

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the widow and the son of one Damo Pradhan a railway employee have prayed for compassionate appointment of the applicant No. 2, the son and also a direction to the Respondents to pay family pension, gratuity, provident fund and other arrears due to the applicant No. 1.

2. Applicant's case is that the deceased railway employee was appointed as a casual Khalasi on 24.10.1967 under B.R.I., Cuttack. He worked as such from 24.10.1967 to 23.2.1968. Then his second appointment was from 5.11.1971 to 23.5.1972 and again from 24.5.1972 to 23.6.1972. Applicants have stated that from 24.6.1972 the husband of Applicant No. 1 was working uninterruptedly under B.R.I., Cuttack and had been given temporary status. Applicants' case is that the deceased employee died on 19.3.1982. Claim of applicant No. 2 ~~is~~ for getting compassionate appointment was rejected on the ground that the applicant No. 2's father left service in 16.2.1982 and had not been in engagement when he passed away. Applicants have further stated that the father of the applicant No. 2 was regularised against a PCR post and by virtue of this, the widow is entitled to get pension. In the context of the above facts, the applicants have come up in this Original Application with the prayers referred to earlier.

3. Respondents in their counter have opposed the prayers of the applicants. It is not necessary to recount the averments made by the Respondents in their counter as these will be noted at the time of considering the prayer of the applicants.



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4. First prayer of the applicants is for giving compassionate appointment to Applicant No.2 Respondents have stated that the deceased employee was not granted temporary status because temporary status was given to casual labourers working under the construction organisation on the basis of the decision of the Hon'ble Supreme Court in the case of INDERPAL YADAV AND OTHERS VRS.UOI AND ORS and in pursuance of which Estt.Sl.No.187/86 was issued but the deceased employee expired in the year 1982 and no temporary status was conferred on him. From the above it is clear that as conferment of temporary status was taken up in pursuance of the Estt.Sl.No.187/86 and Damo Pradhan had passed away in 1982, he could not have been conferred temporary status. The other aspect of the matter is that the Respondents have stated that Damo pradhan left service on 16.2.1982 and passed away on 19.2.1982 and therefore, at the time of his death, he was not in employment under the railway. Applicant has contested this averment but this is mentioned at Annexure-3 filed by the applicants themselves. They have also not filed any documentary proof in support of the contention that Damo Pradhan continued in Railway employment beyond 16.2.82 and was in service on the date of his death. In consideration of this we hold that the applicant No.2 is not eligible to be considered for compassionate appointment. This prayer is accordingly rejected.

Jdm.

5. As regards family pension, the applicants have stated that Damo Pradhan was absorbed against a PCR post. This has also been denied by the Respondents. Applicants have not produced any order showing that Damo Pradhan was absorbed

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against a PCR post. In view of this it must be held that till the death of Damo Pradhan or date of his leaving the service, Damo Pradhan had not been absorbed in regular establishment. In view of this, the widow is not also entitled to get pension and gratuity.

6. In consideration of the above we hold that the application is without any merit and the same is rejected. No costs.

7. We have heard Mr. D. N. Mishra, learned standing counsel appearing for the Respondents and have also perused the records.

*J. S. Dhaliwal*  
(J. S. DHALI WAL)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
21/5/2000

KNM/CM.