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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 248 OF 1998.
Cuttack, this the 10th day of August, 2000.

GUNI OJHA AND ANOTHER.

....

APPLICANTS.

-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*

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 10.8.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 248 of 1998.
Cuttack, this the 10th day of August, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

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1. GUNI OJHA,
Aged about 53 years,
Widow of late Antaryami Ojha,
At: Chandpur, Post: Raghunathpur,
Dist: Jagatsinghpur.

2. KRUPANIDHI OJHA,
Aged about 26 years,
Son of late Antaryami Ojha,
At: Chandpur, Post: Raghunathpur,
Dist: Jagatsinghpur.

....: APPLICANTS.

By legal practitioner: M/s. B.B. Patnaik, B. Behura, P.L.R. PATNAIK,
Advocates.

-VERSUS-

1. Union of India represented through
its General Manager, South Eastern
Railways, Garden Reach Road,
Calcutta, West Bengal.

2. District Engineer, S. E. Railways, Cuttack,
Station Road, Town/Dist: Cuttack.

3. Senior Divisional Personal Officer,
S. E. R. M, Khurda Road,
At/Po/Dist: Khurda.

....: RESPONDENTS.

By legal practitioner : Mr. Ashok Mahanty, Senior Counsel (Rlys.).

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O R D E R

S. Som
MR. SOMNATH SOM, VICE-CHAIRMAN:

In this original Application, under section 19 of the Administrative Tribunals Act, 1985, the widow and the son of late Antaryami Ojha have prayed for compassionate appointment to the applicant No. 2 and have also asked for grant of pension, Provident fund, Gratuity, and leave salary with 18% interest.

2. Applicants' case is that Antaryami Ojha, husband of Applicant No.1 and father of Applicant No.2 was initially appointed as Khalasi in S.E. Railway and worked as such from 24.12.1970 to 23.5.1971. Later on he was appointed as Black-Smith and worked as such on regular basis till 1983. Service of Antaryami Ojha was duly regularised. He suffered from Leprosy and submitted a representation for voluntary retirement. But no action was taken on his representation for voluntary retirement. Antaryami passed away on 15.2.1987 leaving behind applicant No.1 as his widow, applicant No.2 his son and two other minor children. The widow filed a representation for grant of pensionary benefits which is pending. She also submitted a representation on 21-9-1996 for compassionate appointment to his son but without any result. That is why, applicants have come up in this original Application with the prayers referred to earlier.

3. Respondents, in their counter have stated that Antaryami Ojha was engaged as a casual labour on daily wage basis from 24.12.1970 to 23.5.1971 under the PWI (Construction). He worked as casual Blacksmith from 24.5.1971 to 1.6.1977 under PWI (Construction), JD, Jakhapura and again from 25.9.78 to 8.6.83. Respondents have stated that Antaryami had never been conferred with temporary status nor he was ever absorbed in regular establishment. He was asked to work as casual store watchman from 9.6.1983 but he expressed his unwillingness to work on health grounds and was thus, voluntarily retrenched w.e.f. 9.6.1983. Respondents have further stated that there is no scheme for voluntary retirement of casual labourers, and therefore, question of accepting his notice for voluntary retirement does

not arise. He was relieved on his own request on 9.6.83. He died on 15.12.1987. He was allowed retrenchment compensation of Rs.1,167.75p. Respondents have stated that Antaryami died four years after his date of retrenchment and on the date of death, he was not under the employment of the Respondents. Therefore, question of granting compassionate appointment to his son does not arise. They have also stated that as Antaryami worked as a casual labour and casual blacksmith on daily wage basis, widow is not entitled to pension, gratuity, leave salary etc. on the above grounds, the Respondents have opposed the prayers of applicants.

4. Applicants in their rejoinder have repeated the averments made in the O.A. They have stated that Antaryami was a regular casual railway employee and was enjoying all the benefits as a regular casual railway employee. It is stated that Antaryami worked for 13 years with the Railways and the applicants have no knowledge with regard to the deduction from his pay towards GPF. Applicants have stated that the Respondents should have verified this and should have sanctioned the GPF amount. On the above grounds, the applicants have reiterated the prayers in their rejoinder.

5. We have heard Mr. B.B. Patnaik, learned counsel for the applicant and Mr. B. Beura, learned counsel for the petitioner add Mr. Ashok Mohanty, learned Sr. counsel for the Respondents. Learned counsel for the petitioners wanted to file written note of submission but no such written note of submission has been filed.

6. The admitted position between the parties is that Antaryami worked as casual Labour as Khalasi from 24.12.70 to 23.5.71. Respondents have stated that he worked as a casual

black-smith on daily wage basis from 24.5.71 to 1.6.77 and again from 25.9.78 to 8.6.83. Respondents have stated that Antaryami was not granted temporary status nor was he ever absorbed in regular establishment. Though this averments of the Respondents have been contested by the applicants, they have not submitted any documents or order showing that temporary status was conferred on Antaryami or that he was absorbed in regular establishment. Only document filed by the applicants is a letter at Annexure-1 in which the PWI has written to Station Supervisor, Cuttack to issue Spl. duty pass to Antaryami EBS with four ECR and helpers for going from Cuttack to Jaipur Road and for returning to Headquarters. On the basis of this letter requesting the proper authorities to issue pass to Antaryami, it can not be held that he was conferred with temporary status or he was regularised. In view of this, the contention of Respondents that Antaryami during his period of engaged with railways remained as casual labour must be accepted. In view of this, it is clear that the widow is not entitled to family pension and all other pensionary benefits.

7. Applicants have asked for release of GPF amount standing in the name of Antaryami. In their rejoinder, they have stated that they are not aware of what amount has been deducted from his salary during his period of engagements. From the counter of Respondents it appears that Antaryami was retrenched w.e.f. 9.6.1983 on his own request and was also paid retrenchment compensation. He passed away on 15.12.87 more than four years after his retrenchment. There is nothing on record that Antaryami had ever applied for return of GPF and if at all he had at all contributed to GPF. As a casual labour with temporary status.

labour without temporary status, he was not entitled to subscribe to GPF. In view of this, this prayer of release of GPF amount if any, of Antaryami in favour of applicants is held to be without any merit.

8. Last prayer is regarding compassionate appointment. On the date of his death on 15.12.1987, Antaryami was not in employment with Railways. He had been voluntarily retrenched four years earlier. In view of this, the family is not entitled to compassionate appointment. Moreover, from the application it appears that only in 1996, the widow submitted a representation for compassionate appointment which in any case the family was not entitled to get. This prayer is also therefore, held to be without any merit and is rejected.

9. In the result, the original Application is dismissed.
No Costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 2000

KNM/CM.