

19

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.623 OF 1998

Cuttack, this the 13th day of May 2003

Miss John Grasi

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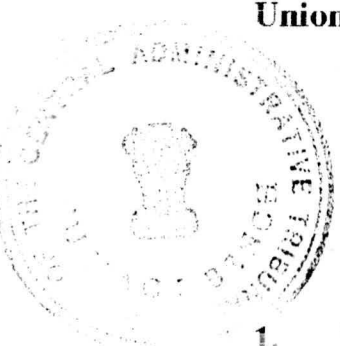
Applicant

Vrs.

Union of India & Others

Respondents.

FOR INSTRUCTIONS

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1. **Whether it be referred to the Reporters or not ?** ab
 2. **Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?** m


(B.N.SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.623 OF 1998

Cuttack, this the 13th day of May, 2003

CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

Miss John Grasi, aged about 41 years, Daughter of Late
V.M. John, C/o. Miss Fellowmna, At/Po-Bandhamunda,
Gondichapali, (Mohan P an Dokhan), S.E. Railway, Dist-
Sundergarh, Orissa.

By the Advocate(s)

.....Applicant

Mr. S. Mohanty

Vrs.

1. Union of India, represented through its Secretary, Railway Department, Rail Bhawan, New Delhi.
 2. Divisional General Manager, S.E. Railway, Chakradharpur (Bihar)
 3. Senior divisional Personnel Officer, South Eastern Railway, Chakradharpur, Bihar.
 4. Senior Divisional Engineer, S.E. Railway, Chakradharpur, Bihar.
 5. Chief Yard Master, Bandhamunda, S.E. Railway, Dist-Sundergarh.
- Respondent(s)

By the Advocate(s)

Mr. C.R. Mishra.


O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

This O.A. has been filed by Miss. John Grasi, D/o Late Mr. V.M. John who was formerly working as Traffic Shuntman at Bondamunda under Chakradharpur Division. She has filed this

16

application praying for grant of family pension benefits to her. The applicant states in her application after her father's death on 23.12.1967, her elder sister was given compassionate appointment by the respondent. In the year 1992 her elder sister got separated from the applicant leaving her in financial distress. She being an illiterate lady she was not aware of the fact that her family was entitled to get family pension benefit after death of her father. That is how she is approaching this Tribunal belatedly with a request to direct the Respondent to pay her family pension benefit.



2. The respondents have controverted the claim of the applicant on the ground that the applicant has not annexed any document to prove that she is the legal heir of the deceased Railway Servant, late V.M. John, and for this defect alone this petition is liable to be dismissed. They further state that the application is barred by limitation and liable to be dismissed. On the merit of the case they submitted that Late Mr. V.M. John while in service was not governed by pension scheme rather he was governed by Contributory Provident Fund Scheme. Hence, they submitted that payment of family pension to the legal heir does not arise. They have also submitted documentary evidence to show that deceased railway servant had contributory provident fund account which was closed after his death.

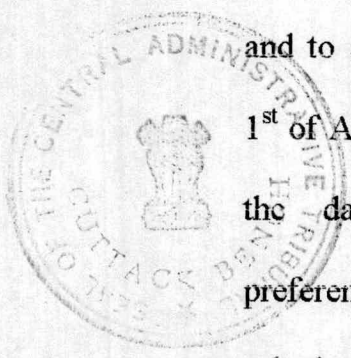
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3. I have heard learned counsels for both parties and have also perused the documents.

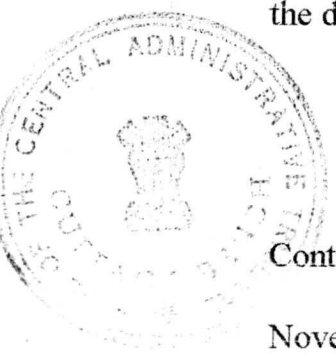
17

4. The main issue to be decided in this case is whether Mr. John, while in service, was governed by the Railway Pension Rules 1957 or was a member of the Contributory Provident Fund Scheme. To determine the said issue I have perused the Rly. Board's letter No.F(E)50/RTI/6 dt. 16th Nov, 1957 introducing a pension system for Railway servants by liberalizing the then scheme of 1950. In terms of this letter, the new scheme was to apply to "all Railway Servants who entered service on or after the issue of this letter dt.16.11.1957. and to all non-pensionable railway servants who were in service on 1st of April, 1957 or had joined railway service between that date and the date of issue of these orders, who opt for these benefits in preference to their existing retirement benefits". All concerned were asked to exercise an unconditional and unambiguous option in the prescribed format. It was also clarified in that letter that any such employee from whom an option form showing the employee's option would not be received within the time limit so fixed or whose option would be found to be incomplete or unconditional or ambiguous would be deemed to have opted for the pensionary benefits. The Ld. Standing Counsel of the Railways drawing my attention to this letter of the Respondent argued that had Mr. V.M. John not clearly exercised his option to remain under Contributory Provident Fund Scheme, there would have been no cause for the Respondents to maintain

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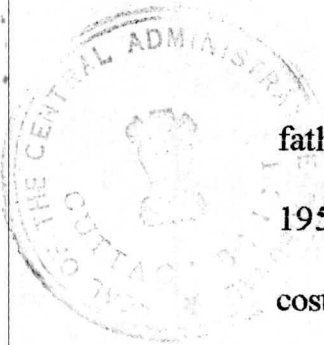
18
CPF ledger card in respect of him from the year 1963-64 till the year of his death i.e. 1968-69. To prove that the father of the applicant had been regularly contributing to the Provident Fund Scheme with matching contribution of the employer, the Respondents produced the P.F. ledger for all the years since 1963-64. The ledgers showed that the deceased had also withdrawn fund from his CPF account.



5. From the above it is clear that Mr. John was a member of Contributory Provident Fund Scheme when the letter dated 16th November, 1957 was issued calling upon all non-pensionable railway servants to exercise option for pension benefits in preference to their existing retirement benefits. There is lot of force in the argument of the Ld. Counsel for the Railways that had Mr. John exercised his option to switchover to the Pension Scheme, the Railways would not have maintained his Contributory Provident Fund Account nor would they have paid matching contribution to his account. The Respondents have been able to prove by producing the Provident Fund Ledger maintained in this regard, from the year 1963-64 to 1968-69 that the father of the applicant consciously decided to remain with the Contributory Provident Fund Scheme.

9

19



6. From the above discussion it is clear that Mr. V.M. John the father of the applicant did not switch over to the pension scheme of 1957. Hence there is no merit in this O.A. which is dismissed. No costs.


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar