

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 663 OF 1998
Cuttack this the 24th day of August/2000

Sk.Maizar

...

Applicant(s)

-VERSUS-

Union of India & Others ...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to 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
24.8.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.663 OF 1998
Cuttack this the 24th day of August/2000

CORAM:

THE HON'BLE SHRI SOMNATH SQM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Sk. Maizar,
Son of Sk. Haidar
of Village - Bhawanipur
PO/PS: Pipli, District: Puri

...

Applicant

By the Advocates

M/s. Manoranjan Mohanty
T.K. Mohanty

-VERSUS-

1. Union of India represented through its Secretary, Ministry of Railway, Rail Bhawan, New Delhi
2. General Manager
South Eastern Railway
Garden Reach, Calcutta-43
3. Chief Yard Master
South Eastern Railway,
Santargachhi
West Bengal
4. Divisional Railway Manager
South Eastern Railway, Kharagpur
5. Divisional Personal Officer
South Eastern Railway,
Kharagpur
6. Divisional Accounts Officer
South Eastern Railway, Kharagpur

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Respondents

By the Advocates

Mr.C.R. Mishra
Addl. Standing Counsel
(Central)

MR .SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to respondents to sanction service benefits, pension of his father as well as family pension in favour of the applicant along with penal interest and costs.

2. The case of the applicant is that his father, Sk.Haidar was appointed as E.P.M. in the S.E.Railway under Y.M. S.R.C. at Santaragachi on 11.9.1942 and he was terminated from service on 6.12.1965. The applicant, who was a minor then could not take steps for getting pensionary benefits sanctioned. Thereafter he made several representations for the above benefits and also sent a Lawyer's Notice, but without any result. In the context of the above facts he has approached this Tribunal in this Original Application with the prayers referred to earlier.

3. Respondents have opposed the prayer of the applicant by filing their counter. It is not necessary to refer to the averments made by the respondents in their counter, ~~but~~ because these will be referred to at the time of considering the submissions made by the learned Addl.Standing Counsel. We have heard Shri C.R.Mishra, learned Addl.Standing Counsel appearing for the Respondents and also perused the records.

4. Applicant has stated that service of his father was terminated on 6.12.1965. Respondents have pointed out that applicant's father Sk.Hidar was removed from service on 6.12.1965. This happened more than three decades prior to filing of this Original Application. It has been further submitted by the respondents that reason for such removal of the applicant's father could not be ascertained as the records are not available

after passage of 34 years. Respondents have stated that Sk.Hidar was governed under S.R.P.F. and he was allotted P.F. No.367324/86793. Respondents have further stated that from the Contributory Ledger Book it appears that his own P.F. contribution plus bonus plus contributory P.F. amounting to Rs. 1014.30 and Rs.2309.00 were sanctioned. Respondents have enclosed a xerox copy of the Ledger as Annexure-R/1 to the counter. It has been stated by the respondents that it is presumed that the amounts must have been paid to the applicant's father, but after long passage of time the voucher slip could not be located. Respondents have further pointed out that applicant's father was removed from service in 1965 and he passed away, according to applicant in 1980. During this long period of 15 years applicant's father never represented for grant of this Provident Fund and C.P.F. and bonus and from this it must be presumed that these amounts which were sanctioned had been received by him.

5. We have considered the above submissions carefully. The date on which the service of the applicant's father ended is undisputed and that is 6.12.1965. It is also clear that applicant's father did not superannuate in normal course. According to petitioner his father's service was terminated. Respondents on the basis of contemporaneous documents have submitted that the applicant's father was removed from service. In the absence of any document filed by the applicant stating that service of his father was in fact terminated, we have to accept the submission of the respondents that applicant's father was removed from service. As regards his entitlement for payment of pension and gratuity, as applicant's father

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Sk.Hidar was removed from service, according to rules he was not entitled to gratuity and as he was covered under C.P.F. Rules, he too was not entitled to any pension. Therefore, grant of prayers of the applicant for pension, gratuity as also arrears on pension are held to be without any merit and the same are rejected.

As the applicant's father was not entitled to pension, the applicant is also not entitled to family pension. The prayer for grant of family pension and arrears thereon is also held to be without any merit and the same is rejected.

The last question which arises for consideration even though the applicant has not prayed for the same in the original Application is whether as a surviving family member of an Ex-C.P.F. subscriber the applicant is entitled to ex-gratia payment. Under the rules only the widow is entitled to such ex-gratia payment. In any case as the applicant's father has been removed from service, under the relevant rules ex-gratia payment is not payable in such case.

6. In view of the above discussions, we hold that the applicant has not been able to make out a case for any of the reliefs prayed for. The O.A. is therefore, held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SINGH)
VICE-CHAIRMAN

B.K.SAHOO//