

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO. 702 OF 1998**  
Cuttack this the 7<sup>th</sup> day of September/2000  
D.V.M.

Aparty alias Aparty Behera ... **Applicant(s)**

**-VERSUS-**

Union of India & Others ... **Respondent(s)**

**(FOR INSTRUCTIONS)**

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

*G.Narashimham*  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.702 OF 1998  
Cuttack this the 7th day of September/2000

CORAM:

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

...

Aparty alias Aparty Behera,  
aged about 53 years,  
S/o. Late Laxman Behera,  
At - Gadamotari, PO: Motari  
P.S. Delang  
District - Puri

...

Applicant

By the Advocates

M/s. U.N. Mishra  
Arun Mohanty  
S.Jenamani

-VERSUS-

1. Union of India represented through  
the General Manager,  
South Eastern Railway,  
Garden Reach  
Calcutta-43 (West Bengal)
2. Divisional Railway Manager  
South Eastern Railway  
Khurda Road Division  
At/PO: Jatni, Dist - Khurda
3. Senior Personnel Officer (Welfare)  
South Eastern Railway,  
Khurda Road Division,  
At/PO : Jatni,  
Dist : Khurda
4. Divisional Personal Officer  
South Eastern Railway,  
Khurda Road Division  
At/PO: Jatni  
Dist : Khurda

...

Respondents

By the Advocates

Mr.D.N. Mishra  
Standing Counsel  
(Railways)

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O R D E R

MR .G.NARASIMHAM, MEMBER (JUDICIAL): In this Application filed by Aparti Behera praying for grant of pension and other retirement benefits, the counter filed by the Respondents (Railway Department) has been ignored by order dated 17.4.2000. However, Shri D.N. Mishra, the learned Standing Counsel appearing for the Respondents has been heard and so also Shri U.N.Mishra, the learned counsel for the applicant.

2. The applicant, a Gangman retired on superannuation on 31.1.1998 on attaining 58 years. His case is though his date of birth is 21.6.1945, the Department has treated it as 2.1.1940. Though he began his career as a casual labourer in 1961 and has been serving since then, he has been regularised on 14.10.1989 and his service from that date only has been taken into account and denied pension and other retirement dues on the ground of service less than ten years. Actually his age of superannuation should have been 60 years. His application in the year 1975 for regularisation did not yield any result. He thus claims that his service has to be counted from 1961 and he is entitled to pension etc. He is also entitled to receive more gratuity than that was paid to him.

3. In this Application filed on 23.12.1998, his plea for regularisation with effect from 1961 cannot be entertained in view of the bar under Section 21(2) (a) of the Administrative Tribunals Act. So also his plea in regard to change of date of birth is hopelessly barred by limitation Under Section 21(1) of this Act.

As to his claim that superannuation age is 60 years, no rule or regulation has been filed. Hence this plea can be ignored.

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4. Hence the only point remains to be considered is whether he is entitled to sanction of pension and more gratuity. His service from 14.10.1988 to 31.1.1998 is less than ten years. Under Railway Service (Pension) Rules, 1993, a regular employee will be entitled to pension if he is in regular service at least for a period of ten years. Hence the applicant is not entitled to pension. It is not his case that the gratuity paid to him has been incorrectly calculated on the basis of his regular service from 14.10.1988 to 31.1.1998. Hence he is not entitled to any more gratuity.

5. This Application fails and is dismissed. No costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
BOS

7-7-2002  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//