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**CENTRAL ADMINISTRATIVE TRIBUNAL ,
CUTTACK BENCH, CUTTACK.**

ORIGINAL APPLICATION NO. 238 Of 199

Cuttack, this the 5th day of December, 2002

Smt.Ratum Bibi

.....

Applicant


Vrs.

Union of India and 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? Yes


(M.R. MOHANTY)
MEMBER(JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 238 OF 1999
Cuttack, this the 5th day of December, 2002

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)
.....

Ratun Bibi, aged about 63 years, w/o late Yusuf Khan of village Birahimpur, P.O. Tarikund, P.S/Dist. Jagatsinghpur
..... Applicant

Advocates for applicant – M/s G.K.Mishra, S.B.Das, R.Khatun & U.R.Padhi.

Vrs.

1. Union of India, represented by the Secretary, Ministry of Railways, New Delhi.
 2. Divisional Railway Manager, South Eastern Railway, Khurda Road, Jatni, District Khurda.
 3. General Manager, South Eastern Railway, Garden Reach, Calcutta 24
 4. Accounts Officer, South Eastern Railway, Garden Reach, Calcutta.
 5. P.W.Inspector (Con.), S.E.Railway, Cuttack.
 6. South Eastern Railway Construction Organisation, Chandrasekharapur, Bhubaneswar, Khurda.
- Respondents.

Advocate for the respondents - M/s Ashok Mohanty, Sr.Panel Counsel(Railways)

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Smt.Ratun Bibi, widow of late Yusuf Khan, praying for a direction to the respondents to give her financial dues payable to her husband and family pension with 12% interest from the date of death of her husband. She has also prayed for a direction to the respondents to provide compassionate appointment to her younger son Abdul Kalam Khan under the Rehabilitation Assistance Scheme.

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2. According to the applicant, her husband, late Yusuf Khan worked as a casual labourer over a period of ten years from 7.8.1968 to 23.2.1979 under Permanent Way Inspector (Construction), South Eastern Railway, Cuttack (respondent no.5) and was retrenched on 23.2.1979 (afternoon), vide Annexure 1. She has further stated that her husband died in the month of October 1983, vide Annexure 2, while he was working as a Watchman at Jakhpura Jajpur Keonjhar Road Railway Station. It is stated by her that in response to Annexure 4, a public notice issued by South Eastern Railway, published in Daily SAMAJ on 28.6.1988, that widow of casual labourer having ten years of service, would be entitled to family pension, she applied for the same, but without any success. Having got no relief from the respondents, she has approached this Tribunal.

3. Respondents, in their counter, have refuted the claim of the applicant regarding the financial dues payable to her husband, late Yusuf Khan, and family pension. They have stated that the applicant had wrongly relied on Annexure 4 as that was not meant for families of casual labourers. The matter was also referred to Chief Personnel Officer, S.E.Railway, Garden Reach, who advised that the applicant was not entitled to either family pension or compassionate appointment as the husband of the applicant died as casual worker who was retrenched and paid compensation under Sections 25F and 25G of the Industrial Disputes Act, 1947. They have further stated that the applicant's husband was not even granted temporary status. The Scheme was introduced for the project casual labourers in pursuance of the Apex Court's judgment in *Inderpal Yadav's* case, and the scheme came into force from 1.1.1981, 1.1.1982, 1.1.1983 and 1.1.1984 for four different categories of casual labourers. The prayer of the applicant for compassionate appointment has also been rebutted by the respondents on the ground that no such rehabilitation assistance scheme was in force for the casual labourers prior to 31.12.1986. Finally, the respondents assail the Application on the ground that it is barred by law of limitation as the applicant's husband was retrenched in 1979 and died in 1983. The applicant's husband having not claimed any further service benefits than what he was given, the applicant is debarred from raising

this issue after such a long time and therefore, the Application is liable to be rejected in limine on the ground of limitation.

4. We have heard Mrs.U.R.Padhi, learned counsel appearing for the applicant, and Shri Ashok Mohanty, the learned Senior Panel Counsel (Railways), appearing for the Respondents and have also perused the records.

5. The learned counsel for the applicant argued that as the applicant's husband served the Railways for more than ten years, the applicant was entitled to family pension under the Family Pension Scheme for Railway Employees, 1964. Over and above what was averred by the petitioner in her Rejoinder, the learned counsel, during hearing, repeatedly tried to draw our attention to the Family Pension Scheme for Railway Employees, 1964, to buttress her point. The learned counsel for the respondents pointed out that the applicant has no case in view of the fact that her husband died in 1983 and it was not possible to grant temporary status to a dead man. Without grant of temporary status a casual labourer is not entitled to any terminal benefit. A casual labourer, in case of death, is not entitled to any monetary relief and in case of retrenchment, he is entitled to retrenchment compensation. The latter benefit had already been granted to the applicant's husband. The learned counsel for the respondents also argued that the applicant's husband having received retrenchment benefit, it was neither open to him or to his legal heir to re-open the matter for any purpose whatsoever.

6. Having perused the records, the averments made in the Application as well as in the Counter and the Rejoinder, we are unable to accept the plea put forward by the learned counsel for the applicant either in her written or oral arguments. We also feel impelled to point out that English version of the notification, dated 26.8.1988, as rendered at paragraph C, Page 3, of the Original Application, unfortunately is not a true rendition of the notification. We do not appreciate this type of inaccuracy in an Application made to the Tribunal. Secondly, we are not convinced with the argument of the learned counsel for the applicant that the Family Pension Scheme for Railway

Employees, 1964, is applicable in the present case. A plain reading of the paragraph 13 of the Scheme makes the position very clear. It reads as follows:

"13. This Scheme is not applicable to:-

- (a) Persons who retired before the 1st January, 1964, but may be re-employed on that date or thereafter;
- (b) persons paid from contingencies;
- (c) work-charged staff;
- (d) casual labour; and
- (e) contract officers."

In the face of the clear provision of the Scheme that it is not applicable to casual labour, the matter ~~could~~ ~~should~~ not have been espoused to the extent it has been made in this case.

7. The respondents have raised the question of limitation, which definitely has a lot of force, because the cause of action, if there was any at all, had arisen in 1983. This could not have been agitated in 1999.

8. In the result, the Original Application is rejected, being devoid of merit. No costs.

For 05/12/2002
(M.R. MOHANTY)
MEMBER(JUDICIAL)

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC *SH*
DECEMBER 2002/AN/PS