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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 276 OF 1999.

Cuttack, this the 13th day of March, 2000.

SMT. SALILA SAMANTRAY.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

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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

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 276 OF 1999.

Cuttack, this the 13th day of March, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.) .

Smt. Salila Samantray, Aged about 52 years,  
W/o. Shri Netramohan Satpathy, C-1326, Sector-6,  
Markat Nagar, Cuttack Development Authority,  
Cuttack-14.

: Applicant.

By legal practitioner: Mr. Satyabadi Das, Advocate.

-Versus-

1. The Commissioner,  
Kendriya Vidyalaya Sangathan,  
18 Institutional Area,  
Shaheed Jett Singh Marg,  
New Delhi-16.
2. The Assistant Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, HP No. 7,  
BDA Colony, Laxmi Sagar,  
Bhubaneswar-6.
3. The Secretary,  
Human Resources Department,  
Manav Bikas Mantranalaya,  
Sastri Bhawan, New Delhi.

: Respondents.

*S. Sanyal*  
By legal practitioner : M/s. Ashok Mohanty, T. Rath  
S. Natia, J. Sahu, Advocates.

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O R D E R  
( O R A L )

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for direction to the Respondents to refer the case of applicant to the Medical Board for granting her invalid pension in case the applicant is entitled to get the normal retirement benefit which she has claimed. She has also prayed for a direction to the Respondents to complete the process of pensionary benefit within a specific period.

2. Applicant's case is that she joined in Kendriya Vidyalaya, FCI Talcher on 13.10.1980 as a Teacher. While she was working at Talcher Kendriya Vidyalaya, she faced a major accident in 1982 and was hospitalised. After prolonged treatment, she joined her duty but her health did not recoup. In view of this on 19.2.1999, she had filed an application to retire her voluntarily on invalid pension. But no action was taken by the Respondents on the petition and that is why she has come up in this Original Application with the prayers referred to earlier.

3. Respondents in their counter have stated that as the applicant had not completed 20 years of service by 19.2.1999, she is not entitled to get pensionary benefits. As regards the regular invalid pension, under

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Rule-38 of Pension Rules, a Government servant applying for invalid pension must submit an application alongwith necessary medical certificate duly issued by the competent authority as prescribed under the rules and that no having been done by the applicant, they have not taken any action on the application of the petitioner. In the Note 1 below Rule-38 of CCS(Pension)Rules,1972 it has been mentioned that no medical certificate of incapacity for service may be granted unless the applicant produces a letter to show that the Head of his Office or Department is aware of the intention of the applicant to appear before the Medical Authority. It is also provided that the medical authority shall also be supplied by the Head of the Office or Department in which the applicant is employed with a statement of what appears from official records to be the age of the applicant. If a service book is being maintained for the applicant, the age recorded therein should be reported. From this it appears that before the applicant can get herself examined by the appropriate medical authority as mentioned in subrule-2 of Rule-38 the Head of the Office or Department has to send certain records to the concerned medical authority. Note-2 also provides that where a person seeking retirement is a woman then a lady doctor shall be included as a member of the Medical Board. In consideration of this, it is clear that the Respondents inaction on the petition dated 19.2.1999 filed by applicant for invalid pension is not sustainable. In view of this, the Respondents are directed to take

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action as per Note-1, below Rule-38 and refer the documents to the Medical Board within a period of 30 days from the date of receipt of a copy of this order. It is also directed that within 30 (thirty) days of receipt of the report of the Medical Board, the Respondents should take appropriate decision on the report of the Medical Board and intimate the result thereof to the applicant.

4. The Original Application is allowed in terms of the observations and directions made above.  
No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN  
13.5.2000

KNM/CM.