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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.420 Of 1999

Cuttack, this the 18th day of January, 2001

Smt.Sailabala Patra 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 Tribunal or not? No .

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18/1/2001

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CORAM:

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

.....

Smt.Sailabala Patra, aged about 58 years, wife of late Panchu Patra alias Panchu resident of Raghunathpur, P.O-Raghunathpur, P.S-Chandrasekharapur, Dist.Khurda

..... Applicant

Advocate for applicant-Mr.Amiya Kr.Misra-2

Vrs.

1. Union of India, represented through the General Manager, South Eastern Railways, Garden Reach, Calcutta-43.
2. The Addl.General Manager & Director of Grievances, Garden Reach, Calcutta-43.
3. The Divisional Railway Manager (P), South Eastern Railway, At/PO-Khurda Road, District-Khurda

..... Respondents

Advocates for respondents-M/s S.L.Patnaik
S.Nayak
Ihd. Arif.

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

In this application, the petitioner, who is the widow of Panchu Patra, has prayed for family pension with effect from 23.4.1989, the day her husband died.

2. The applicant's case is that her husband was originally appointed as a casual labourer and worked as Gangman under P.W.I., Baranga, from 6.5.1969. On 24.8.1973 he was screened and on being successful, was conferred with temporary status. On 20.3.1984 medical examination of the applicant's husband was conducted for the purpose of regularisation. But he was not absorbed in permanent post and was allowed to continue as Gangman till his death on 23.4.1989. As the applicant's husband had completed twenty

years of service under the Railways, she has come up in this petition for family pension. She has mentioned that after the death of her husband, her eldest son was provided with engagement by the Railways in their letter dated 17.1.1992, but no family pension was paid. She has stated that under the Rules as also in accordance with the various decisions of this Bench of the Tribunal and the decision of the Hon'ble Supreme Court, she is entitled to family pension and that is why she has come up in this petition with the prayer referred to earlier.

3. Respondents have filed counter opposing the prayer of the applicant.

4. No rejoinder has been filed.

5. The learned lawyers have abstained from court work for more than a month expressing their protest against imposition of professional tax by the State Government and there is no indication when they will return to court work. The petitioner is absent. There is no representation from the side of the respondents. The Hon'ble Supreme Court in the case of Ramon Services Pvt.Ltd. v. Subhash Kapoor and others, 2000 AIRSCW 4093, have deprecated the action of the courts in adjourning cases because of abstention from court work by the learned counsels. Their Lordships have observed that by such adjournment the defaulting courts would be contributing to the contempt of the Hon'ble Supreme Court. In view of this, the matter cannot be adjourned indefinitely. We have, therefore, perused the records.


6. According to the respondents, the applicant's husband was engaged as a casual labourer on 24.8.1973 under P.W.I., Baranga. No records are available

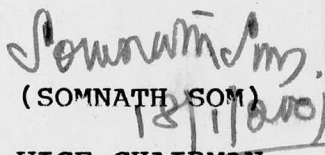
about his engagement from 6.5.1969, as alleged by the applicant. The respondents have pointed out that the applicant has not enclosed any document in support of her contention that her husband was working under the Railways from 6.5.1969. The respondents have stated that the applicant's husband was called for medical examination on 21.3.1984 in which he was found unfit for appointment and therefore he continued as temporary casual labourer till his death on 23.4.1989. The respondents have enclosed at Annexure-R/2, the report of medical examination of the applicant's husband. They have also stated that the Hon'ble Supreme Court in the case of Ram Kumar and others v. Union of India and others, 1988 (2) SCR 138, have held that widows of casual labourers, who have not been absorbed in regular establishment, are not entitled to family pension. They have also enclosed the order of the Hon'ble Supreme Court in the Civil Appeals, arising out of SLP (Civil) Nos. 3341 of 1993 and 10951 of 1995 (Union of India and others v. Sukanti and another, etc.) in which the Hon'ble Supreme Court have set aside the decision of the Tribunal in granting family pension to widows of casual labourers. In the light of the above, the respondents have opposed the prayer of the applicant.

7. From the above, it is clear that the applicant's husband was a casual labourer who had not been absorbed in regular establishment. The applicant herself has stated in paragraph 4.3 of the OA that even though her husband was medically examined on 20.3.1984, he was not absorbed in permanent establishment. The respondents have enclosed at Annexure-R/2, the report of medical examination of the applicant's husband in which he was declared unfit for

regular appointment. The Hon'ble Supreme Court in the case of Union of India and others v. Sukanti & another, etc. (supra), have noted that widows of casual labourers, who had not been regularised in service, are not entitled to family pension. In view of the clear pronouncement of the Hon'ble Supreme Court in the above case, it is not necessary to refer to the decisions of the Tribunal relied on by the applicant in her OA. The law as laid down by the Hon'ble Supreme Court squarely applies to the facts of this case and accordingly, we hold that the petitioner is not entitled to family pension.

8. The application is accordingly rejected. No costs.


(G.NARASIMHAM)
MEMBER(JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN

January 18, 2001/AN/PS