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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.660 OF 1999.  
Cuttack, this the 1st day of Jan, 2002.

Smt. Phula Martha. .... Applicant.

: Vrs.:

Union of India & Ors. .... 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

(SOMNATH SOM)  
VICE-CHAIRMAN

1.1.2002

(NITYANANDA PRUSTY)  
MEMBER(JUDICIAL)

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ORIGINAL APPLICATION NO. 660 OF 1999.  
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C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN  
A N D  
THE HONOURABLE MR. NITYANANDA PRUSTY, MEMBER(J).

..

Smt. Phula Martha,  
W/o. Dutta Charan Martha,  
At: Rathipur, Po: Kantia,  
Via: Jatni, Dist. Khurda.

.... Applicant.

By legal practitioner: Mr. D. P. Dhal Samant, Advocate.

: Versus:

1. Union of India represented through the General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
2. Chief Personnel Officer, S<sup>E</sup> Railway, Garden Reach, Calcutta-43.
3. Sr. Divisional Personnel Officer, O/O the Divisional Railway Manager, S.E. Railway, Khurda Road, Khurda.

.... Respondents.

By legal practitioner: M/s. D. N. Mishra, S. K. Panda, S. Swain, Standing Counsel for the Railways.

....

O R D E R

MR. NITYANANDA PRUSTY, MEMBER (JUDICIAL):

The applicant who is the wife of a Railway employee has filed the present original Application with the prayer for quashing the order under Annexure-6 wherein her application for employment assistance on compassionate ground to Shri S. K. Martha, S/o. Dutta Ch. Martha, has been rejected by the competent authority and communicated by the DRM(P), with a further prayer for a direction to the Respondents to consider the case of the applicant's son for compassionate appointment.

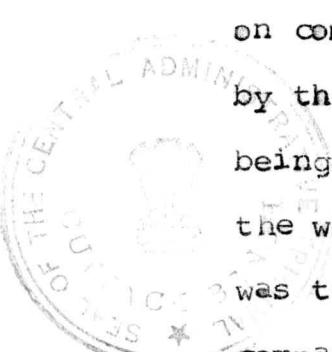
*W. M. D.*

2. The case of applicant in short is that her husband Dutta Ch. Martha was appointed as a casual labourer by the Assistant Engineer, SE Railway, Khurda Road for a period from 6.7.1988 to 20.11.1988 and his services were terminated w.e.f. 20.10.98 without any notice. Against the said order of termination, the husband of the applicant had approached this Tribunal in OA No. 338/1988 wherein vide order dated 21.10.1988, this Tribunal directed that the service of applicant's husband and others should not be terminated until further orders in view of the fact that termination of the services of the applicants in OA No. 284/1987 had already been stayed by the Hon'ble Supreme Court. The husband of applicant expired on 23.1.1989 i.e. before he was allowed to join the work by virtue of the order of the stay. The Respondent No. 2 did not consider the representation made by the widow of the deceased employee to give an appointment to her son namely Sukanta Kumar Martha on compassionate ground even though the matter was recommended by the DRM(P), Khurda Road to the Chief Personnel Officer(I/P) for taking a decision for engagement of the son of applicant as casual labourer in Gr.D category. She has stated that in similarly placed persons like that of the case of applicant, compassionate appointment have been provided but in her case, a different attitude has been shown to her in rejecting her application for compassionate appointment to her son. On the above ground, she has come up in this original Application with the prayers referred to earlier.

3. Respondents have filed their reply inter alia stating that the cause of action arose in 1989 when the ex-employee expired on 23.1.1989 but the present application having been

*W.M.D.*

filed in 1999, the same is barred by limitation. So far as merit of the application is concerned, the Respondents in their reply have stated that the husband of the applicant was engaged as a casual labourer under the Permanent Way Inspector, Khurda Road in different spells as casual labour/Manseen Patrollman/CPC casual labourer. The said ex-employee had worked as casual labourer from 1961 to 1963 in different spells totalling 546 days, Manseen patrollman from 1.8.1986 to 23.10.1986 against Temporary Labour Requisition Sanction, as CPC casual labourer upto 20.10.1987 and his services were terminated w.e.f. 21.10.1987 (FN) and he was re-engaged as casual labourer (daily rated) from 6.7.1988 to 20.10.1988 and his services were terminated w.e.f. 20.10.1988. After his death on 23.1.1989, the applicant has sought for employment assistance on compassionate ground for her son. The said case was examined by the competent authority but when it was found that there being no provision for providing compassionate appointment to the wards of the ex-employee, who are terminated, the same was turned down and the order of turning down the request for compassionate appointment was communicated to the applicant vide order dated 28.12.1999 (Annexure-6). The Respondents have further contended that the ex-employee was not appointed by the Railway Administration at any point of time but engaged as casual labourer on local approved market rate on daily wage and his service was terminated w.e.f. 20.10.1988 and after being terminated he expired on 23.1.1989. In view of the fact that there is no rule/provision for providing appointment under compassionate ground to the wards of an ex-employee, who is terminated the representation of the applicant was turned down.



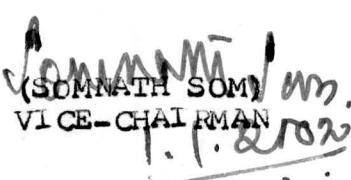
Further more in absence of any rule for compassionate appointment to the wards of ex-employee, who is terminated no illegality has been committed by the Respondents in rejecting the representation of applicant. It has further been stated by the Respondents that similarly placed persons like the applicant's son have not been provided with any employment under the provisions of compassionate ground. On the above grounds, they have opposed the prayers of the applicant.

4. We have heard Shri D.P. Dhalsamant, learned counsel for the applicant and Shri D.N. Mishra, learned Standing Counsel appearing for the Respondents and have also perused the records.

5. The Respondents in their reply have not quoted the relevant provisions of the Rules under which they have rejected the application for compassionate appointment of the applicant's son nor they have bothered to file the extract of such rule in support of their contentions. Similarly, the applicant has also not quoted the names of any such similarly placed person who has been provided with compassionate appointment by the Respondents/Railway Administration. It is to be noted that this is an unfortunate case, where the husband of the applicant could not enjoy the fruits of the order of the stay of termination granted by this Tribunal on the basis of the order of the Hon'ble Apex Court. Considering the above facts and circumstances of the case, we feel ends of justice would be properly met in case another opportunity is given to the applicant to file a detailed representation before the authorities stating the names of the similarly placed persons, who have been given appointment

under the scheme of employment assistance on compassionate ground. We therefore, permit the petitioner to file a detailed representation as stated above, within a period of thirty days from the date of receipt of a copy of this order and in case such a representation is filed by the applicant, the Respondents are directed to consider and dispose of the same within a period of 60 days from the date of receipt of such representation by a reasoned and speaking order and communicate the result thereof to the applicant within a period of 15 days thereafter.

6. With the above observations and directions, the OA is disposed of. No costs.

  
(SOMNATH SOM) Mr.  
VICE-CHAIRMAN

  
(NITWANANDA PRUSTY)  
MEMBER(JUDICIAL)

KNM/OM.