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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO.666 OF 1999.

Cuttack, this the 30th of October, 2000.

Tapoi Mallik,

...

Applicant.

VERSUS

Union of India & 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? No.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
30.10.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 666 OF 1999.  
Cuttack, this the 30th day of October, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

...

Tapoi Mallik, Aged about 53 years,  
W/o. Late Krushna Chandra Mallik,  
Village-Bhabalpur, PO: Sisua, Ps: Salipur,  
Dist. Cuttack. ...

... Applicant.

By legal practitioner ; M/s. S. K. Mund, D. P. Das, J. K. Panda, Advocates.

- VERSUS -

1. Union of India represented through  
General Manager, South Eastern Rly.,  
Garden Reach, Calcutta.
2. Divisional Manager,  
Khurda Road Division,  
S. E. Railway,  
Khurda Road,  
Dist: Khurda.
3. Bridge and Road Inspector (South),  
South Eastern Railway, Khurda Road,
4. Deputy C. P. O, Chandrasekharpur,  
Bhubaneswar.
5. Chief engineer (Commercial),  
Chandrasekharpur, Bhubaneswar. ... Respondents.

By legal practitioner; Mrs. R. Sikdar,  
A. Sikdar,  
Addl. Standing Counsel (Rlys.).

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

*S. Som*

In this Original Application, the applicant who is the widow of one Krushna Ch. Mallik who was working, according to the applicant, as Bridge Inspector, in the south eastern Railway, Khurda Road and passed away in harness on 24-3-1990, has prayed for a direction to the Respondents to pay her the Provident fund dues of her husband family pension and other service benefits.

2. Respondents have filed counter opposing the prayers of the Applicant and the Applicant has filed rejoinder.

3. For the purpose of considering this Original Application, it is not necessary to record all the averments made by the parties in their pleadings.

4. I have heard Mr. S. K. Joshi, learned counsel on behalf of learned counsel for the applicant and Madam R. Sikdar, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

5. The first prayer of applicant in para 9-(a) of the Original Application is for a direction to the Respondents to pay her the Provident Fund dues of her husband. Respondents have stated in their counter, at page 2 that the provident fund balance standing on the credit of late K. C. Mallik was paid to the applicant after the death of the deceased Rly. employee. Applicant has admitted in para 2 of the rejoinder that the Respondents have released some amount to the applicant towards the provident fund dues of the husband of the applicant. Respondents have mentioned at page 2 of the counter that keeping in view the Tribunal's order dt. 10.1.2000, they are once again verifying from the relevant records in the Office of the FA & CAO, if the provident fund balance standing in the name of the deceased employee has been paid in full to the applicant. In view of the averments made in the counter, we dispose of this prayer of the applicant with a direction to the Respondents that within a period of sixty days from today, they should checkup if the entire provident fund dues have rightly been paid to the applicant and intimation to that effect be sent to the applicant within 15 days thereafter.

6. The third prayer of the applicant is for payment of other terminal benefits of her husband. It is submitted by learned counsel for the applicant Mr. Josi that the applicant has not received the gratuity so far. Respondents have mentioned in their counter, at page 2 that on receipt of legal documents the settlement dues like Service gratuity will be paid according to rules to the eligible members. Respondents have also stated that earlier one Smt. Pusi Mallik stated to be the second wife of late K. C. Mallik had submitted an affidavit for arranging payment of settlement dues but Respondents themselves have stated that the said Pusi Mallik had in the meantime expired. In any case, Respondents have admitted their liability to pay the service gratuity to the eligible members of the family of the deceased Railway employee on receipt of legal documents. As the applicant is an aged widow living in her village it would be difficult for her to complete the documentation on her own, and in this process, payment of service gratuity will be delayed. In consideration of this, we dispose of this prayer of the applicant with a direction to the Divisional Railway Manager Khurda Road, Division SE Railway, Respondent No. 2 to depute a Welfare Inspector to the village of the applicant for completion of documentation and pay the service gratuity of the deceased Railway employee, K. C. Mallik within a period of 90 days from the date of receipt of a copy of this order.

7. The main prayer of the applicant is for Family pension. Applicant has stated that her husband was appointed as Khalasi in 1950. He passed away on 24-8-1990. Respondents have stated in other hand that the applicant's husband was initially engaged on 4.8.1972 and he was granted temporary

status on 1-1-1981 as per the honourable Supreme Court's judgment in INDERPAL YADAV AND OTHERS' CASE but he was not regularised till his death on 24-8-1990. They have further stated that screening of casual labourers of the regarding unit where the applicant's husband was working was done only in February, 1992 for the purpose of their absorption in the regular establishment but by February, 1992 applicant's husband has expired and therefore, he could not be absorbed in regular establishment. These averments of the Respondents have not been denied by the applicant in her rejoinder. She had merely stated in para 3 of the rejoinder that the process of regularisation has no role to play so far as grant of family pension is concerned. On this point, I have heard Mr. Josi, learned counsel for the applicant and Madam Sikdar, learned Additional Standing Counsel appearing for the Respondents. Law is well settled that casual labourers by themselves are not Railway servants. They can be granted pension only they have been absorbed in regular establishment and have put in ten years of pensionable service. For calculating the pensionable service 100% of service from the date of regularisation till the death or superannuation and 50% of service rendered after granting of temporary status till the date of regularisation is taken into account. So far as Family pension of the widows of the employees who have died in harness, rules provide that one year of pensionable service is adequate for granting family pension but in this case as the applicant's husband had not been regularised till his death, he did not have any pensionable service and in consideration of this the applicant, is not entitled to family pension. This prayer is accordingly rejected.

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8. In the result, therefore, the Original Application is disposed of in terms of the observations and directions made above. No costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
30.10.2010

KNM/CM.