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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 371 OF 2000
Cuttack, this the 16th day of July, 2002.

Biswajit Kumar Parida.

Applicant.

- Versus -

Union of India & Others.

Respondents.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not?
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Manoranjan Mohanty
(MANORANJAN MOHANTY)

MEMBER (JUDICIAL)

16/07/2002

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 371 OF 2000.
Cuttack, this the 16th day of July, 2002.

C O R A M:

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDL.)

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Biswajit Kumar Parida,
Aged about 27 years,
S/o. Late Kritibash Parida,
Vill./PO: Kamurdiha,
Dist. Mayurbhanj.

Applicant.

By legal practitioner: M/s. S.B. Jena, S.K. Das,
S.J. Nanda, S. Behera,
S.S. Mohapatra,
J.K. Swain, Advocates.

- Versus -

1. Union of India represented through its General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
2. Divisional Railway Manager, South Eastern Railway, Khargapur, Dist. Medinapur, West Bengal.
3. Divisional Personnel Officer, South Eastern Railway, Kharagpur, Dist. Medinapur, West Bengal.

.... Respondents.

By legal practitioner: Mr. P.K. Mishra, Additional Standing Counsel (Railway).

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O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :

In this Original Application, the Applicant Biswajit Kumar Parida, Son of late Kritibash Parida, prays for a direction to the Respondents/Railways to release family pension (alongwith other retiral benefits with interest at the rate of 18% per annum w.e.f. the date of the death

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of his mother i.e. from 06-01-1997 till his age of entitlements in his favour as per the Rules.

2. Respondents have filed their counter interalia opposing the stand taken by the Applicant and the Applicant has also filed rejoinder.

3. Having heard Mr.S.B.Jena, Learned Counsel for the Applicant and Mr.P.K.Mishra, Learned Counsel appearing for the Railways and on perusal of the records of Original Application No. 157/1997 (disposed of on 24th September, 1997 by this Bench) which has been relied upon by the Advocate for the Applicant in support of his contention, it is found that the moot question for consideration in this case arises as to whether the Applicant Biswajit Ku. Parida is the son of late Kritibash Parida and if it is so, whether he is entitled to get the family pension and other reliefs as prayed for.

4. The Respondents, relying on the declaration signed by the mother of the Applicant(late Sankuntala Parida) under Annexure-R/1, submit that since in the family composition given by the widow of late Kritibash Parida (ex-Rly.employee), they had no such son named as Biswajit Parida and, as such, no family pension is payable to the applicant as he is not the son of the deceased Rly.employee. Since this was the only crux of the matter, in order to reach a just decision in the dispute, I have carefully gone through the order and the records of the O.A.No.157/1997, which was filed by the present Applicant, challenging the order dated 07-01-1997 passed by the Divisional Railway

Manager (P), of South Eastern Railway at Kharagpur rejecting the claim for compassionate appointment in favour of the present applicant, on the ground of delay; wherein it was pointed out as follows:

"Since you being the 3rd son and last son got majority in the year 1985, your mother should have applied for employment assistance for you in the year 1987 i.e. within two years of your attaining majority, if at all, she wanted to nominate you, the 3rd son, for such employment assistance".

In para-6, at page-2 of the counter filed in OA No.157/97 it has been admitted by the Railways that the Applicant was a minor at the time of the death of his father on 30.10.1976. It is also seen at Annexure-R/1 to the said counter (which was a declaration given by the deceased Railway employee that the name of the present Applicant was disclosed at Sl.No.4 as a son. In the present case also the said declaration, as in Annexure-R/1 in OA No.157/97 has been filed by the Applicant as Annexure-10; which has not been disputed by the Railways in the present case.

The declaration (which is Annexure-R/1 in the counter of the present case) shows that she was an illiterate person and had only put her thumb impression. Apparently the said document has ~~not~~ been drawn up by somebody who never knew the family members of the Railway employee and that is why instead of 'Biswajit' it has wrongly been written as 'Surjit' in Annexure-R/1. Further the certificate issued by the Board of Secondary Education Orissa, goes to show that the Applicant is the son of Kritibash Parida, the ex-Railway employee. As such the plea taken by the Respondents in the

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counter disputing the sonship of the Applicant is not at all tenable and hence, the said objection/dispute is hereby overruled.

5. It is, in the above premises, ordered that the Applicant Biswajit Kumar Parida is the third son of the deceased Government/Railway Servant namely Kiritibas parida and since the entitlement of the family pension of the Applicant is no more in dispute, the Respondents/Railways are hereby directed to pay the Applicant family pension from the date of the death of his mother till he attains the age of entitlement and the arrears be calculated and paid to the Applicant within a period of three months from the date of receipt of a copy of this order. Since the legitimate claim of the Applicant has not been paid to him and he has been denied of such entitlement at the whims and caprices of the Respondents/Authorities, 12% interest on the arrear amounts of family pension be calculated and paid to the applicant.

6. Before parting with this case, I must record my deep concern about the attitude of the Authorities/Railways/ Respondents in taking two different grounds/stands to deny the legitimate claim of the Applicant. Further I must record that even though the Divisional Personnel Officer, SE Railway Kharagpur has vetted the two counters (in OA No. 157/97 and OA No. 371/2000) but while doing so, he had not applied his mind at all ; for which the Applicant had to suffer the litigation. In ordinary course, I would have imposed cost but since due to such action, interest at the rate of

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12% has been imposed on the Respondents, I refrain myself from passing such an order awarding cost on the Respondents.

7. With the above observations and directions, this Original Application is disposed of. No costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY) 16/07/2002

MEMBER (JUDICIAL)