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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 217 OF 2002
Cuttack this the 9th day of April/2003

Kathia Behera ... Applicant(s)

VERSUS

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

(H. P. MOHANTY)
MEMBER (JUDGE)

[Signature]
(B.N. SOM)
VICE_CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 217 OF 2002
Cuttack this the 9th day of April/2003

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

...
Kathia Behera, aged about 61 years, S/o. Mandar,
Village : Mamagada, PO-Antia, PS-Dharmasala, Dist-
Jajpur, Retired Sr. Trackman, Under Engineering
Department, P.W.I., S.E. Railway, Bhadrak

Applicant

By the Advocates

M/s. N.R. Routray
S. Mishra

-Vs. -

1. Union of India represented through the General Manager, S.E. Railway, Garden Reach, Kolkata-43
2. Divisional Railway Manager, S.E. Railway, At/PO/PS-Jatni, Dist-Khurda
3. Senior Divisional Personnel Officer, S.E. Railway, At/PO/PS-Jatni, Dist-Khurda

Respondents

By the Advocates

Mr. D.N. Mishra
Mr. R.C. Rath (Res. 2 & 3)

ORDER

MR. B.N. SOM, VICE-CHAIRMAN: Applicant (Kathia Behera) has filed this Original Application on the ground that although he was initially appointed as casual labour on 4.7.1987 under A.E.N - I, S.E. Railways, Cuttack, worked for 113 days continuously, faced termination on 20.10.1987, reengaged on 29.6.1988 as a casual Gangman and was retrenched on 20.10.1988. He was granted temporary status w.e.f. 28.11.1988, regularised in service after five years on 4.6.1994 and faced retirement on superannuation w.e.f. 31.10.2000. It is the admitted fact that on his retirement because of ten years of the applicant/having less than/pensionable service did not get the benefit of pension and retirement and had to

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remained satisfied with D.C.R.G. and service gratuity amounting to Rs.55,824/-. ~~xxx. xxx. The~~ applicant has ~~is also~~ put forth a complaint that the Respondents unnecessarily took five years to regularise his service. They ~~xxx~~ could have done so in the year 1990-91 ^{by} taking into account his past service since 8.4.1986.

2. Respondents have in their counter denied the allegation made by the applicant. They have pointed out that the applicant was granted temporary status no sooner it was due and he was regularised in service no sooner his turn came for regularisation. While calculating his retirement benefits, it is submitted that the Respondents had adhered strictly to rules framed for this purpose by the Ministry of Finance and ~~these~~ principles have already been upheld by the Hon'ble Supreme Court reported in AIR 1988 SC 2030.

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3. I have heard Shri N.R.Routray, learned counsel for the applicant and Shri R.C.Rath, learned Standing Counsel for the Respondents and perused the records placed before me. Shri Rath, the learned Standing Counsel for the Respondents admitted that the qualifying service as worked out by the Department under Annexure-R/5 was wholesome and free from ambiguity. He also admitted that it is not the case of the applicant that any official junior to him in the grade of casual labour live register was considered for regularisation before his turn came. In fact the applicant got regularisation in turn. This being the factual position that the applicant got the

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benefit of regularisation in his turn and it is not his case that vacancies were available for regularisation but the Respondents did not take timely action, nothing survives in this Original Application for adjudication. In the circumstances, the relief prayed for by the applicant in this O.A. is also not available. This O.A. is accordingly dismissed. No costs.


(B.N. SOM)
VICE_CHAIRMAN

Biy/