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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 799 OF 2005
CUTTACK, THIS THE ^{15th} DAY OF February, 2008

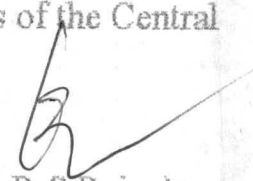
Miss Erkan Toppo Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

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


(K.B.S.Rajan)
MEMBER (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 799 OF 2005
CUTTACK, THIS THE 15 DAY OF February, 2008

CORAM :

HON'BLE Dr.K.B.S.RAJAN, MEMBER (J)

Miss Erkan Toppo, aged about 38 years, D/o. Late Bipin Toppo, Sister of Late Biraj Toppo, at present residing at diesel colony, Bondamunda, Jhopadi, P.O. Bondamunda, Dist. Sundargarh, Orissa.

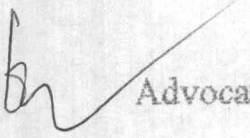
.....Applicant

Advocate(s) for the Applicant- M/s B.S.Tripathy, M.K.Rath, J.Pati.

VERSUS

1. Union of India represented through the General Manager, south Eastern Railway, Garden Reach, Kolkata-43.
2. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata-43.
3. The Divisional Railway Manager, South Eastern Railway, Chakradharpur, Railway Division, At/PO. Chakradharpur, Dist. Singhbhum (Jharkhand).
4. The Senior Divisional Personnel Officer, South Eastern Railway, Chakradharpur Railway Division, At/PO. Chakradharpur, Dist. Singhbhum, Jharkhand.
5. The Divisional Mechanical Engineer, (Power), south Eastern Railway, Chakradharpur Railway Division, At/PO. Chakradharpur, Dist. Singhbhum, Jharkhand.

..... Respondents

 Advocates for the Respondents – Ms.S.L.Pattnaik

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ORDER

Hon'ble Dr. K.B.S.Rajan, Member(J)

The applicant is the sister of late Biraj Toppo who was a Railways employee and who died in harness. His marital status at the time of his demise was Bachelor. Applicant's another brother was also a Railway employee who was run over by a passenger train and died. The father of the applicant was also a retired pensioner died in 1986. The applicant became major in 1985. In October 1986, the mother of the applicant approached the Respondents for compassionate appointment to the applicant. As there was no response, she filed another representation. Ultimately, the mother also died in October, 1988. Thereafter, in 1993, the applicant herself approached the Respondents but could not get any favourable response. Her last representation is of 2005 whereafter she has moved this Tribunal.

Respondents have contested the O.A. As per their records, Biraj Toppo died on 25.11.1982 while on duty at Manoharpur. Applicant's father was a retired Railway employee enjoying pension and he died only in 1986. As such, according to the Respondents at the time when Biraj Toppo died, his father being alive his sister could be considered as a dependant only upon her father and not on brother. According to the Respondents, there is no provision in Compassionate Appointment in the wake of a death of a Bachelor.

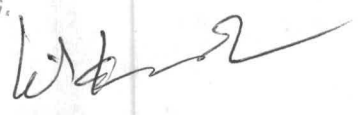
Counsel for the applicant referred to the rule on the subject, which provides for compassionate appointment to the dependants of the employees who died in course of duty. The applicant has no-body to look after and hence she could be considered for compassionate appointment. He has also brought to the notice of the Tribunal that period of eligibility of

entitlement to compassionate appointment could be relaxed up to 20 years with the approval of General Manager.

Counsel for the Respondents submits that as stated in the counter, provision does not exist for any such compassionate appointment.

Arguments were heard and documents perused. If the term dependant strictly construed, as on 1982, the applicant would be in the guardianship of his natural father who was a retired pensioner. As a Bachelor, the applicant's brother could have only moral responsibility to look after his sister but officially his sister would be dependant upon her father. Rules provide that compassionate appointment could be considered in response of surviving dependants. The only exception perhaps may be posthumous child and none else. In the instant case, as rightly contended by the Railways, the applicant never remained dependent upon late Biraj Toppo. As such, notwithstanding the financial condition of the applicant, as rules do not provide for any compassionate appointment in such cases, the Tribunal is constrained to reject her application.

Accordingly, the O.A. is dismissed. No costs.


(K.B.S. Rajan)
MEMBER (J)