

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application Nos. 856 of 2005  
Cuttack, this the 17/<sup>th</sup> day of April, 2007.

Rabindra Naik and another ... Applicants  
Versus  
Union of India and Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Y*
2. Whether it be circulated to all the Benches of the CAT or not?

*MoHanty*  
(M.R.MOHANTY)  
VICE-CHAIRMAN

*B.B.Mishra*  
(B.B.MISHRA)  
MEMBER(A)

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## CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

O.A.No. 856 of 2005  
Cuttack, this the 17<sup>th</sup> day of April, 2007

### C O R A M:

THE HON'BLE MR. M.R.MOHANTY, VICE-CHAIRMAN  
AND  
THE HON'BLE MR.B.B.MISHRA, MEMBER (A)

1. Rabindra Kumar Naik, aged about 27 years, son of late Rama Naik, At-Loco Colony, Po-Jatni, Ps:Jatni, Dist. Khurda.
2. Zima Naik, aged about 57 years, wife of Late Rama Naik, At-Loco Colony, Po/Ps:Jatni, Dist. Khurda.

..... Applicants

By legal practitioner: M/s. R.K.Samantasinghar, R.K.Sahoo,  
A.K.Mallik, P.K.Routray, Advocates.

### -Versus-

1. Union of India represented through General Manager, East Coast Railway, Rail Bihar, Po/Ps-Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Divisional Railway Manager, Khurda Road Division, East Coast Railways, At/Po/Ps: Jatni, Dist. Khurda.
3. The Senior Divisonal Personnel Officer, Khurda Road Division, East Coast Railway, At/Po/Ps.Jatni, Dist. Khurda.

...Respondents.

By legal practitioner: Mr.B.K.Mohapatra,ASC.

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## ORDER

MR.B.B.MISHRA, MEMBER(A):

Applicant No.2 is the mother of Applicant No.1 and Applicant No.1 claims to be the younger brother of Surendra Naik. Surendra Naik, while working as Safaiwala under Chief Health Inspector, (now E.Co. Railways) expired on 14.04.1998. He was unmarried at the time of death. His father Ram Naik was also working in the Railways as Master Craftsman (fitter) in the mechanical department of Khurda Road Railway Division at the time of death of his son late Surendra Naik. He retired from Railway service on 30.10.2000. Applicant No.2 applied for providing employment on compassionate ground in favour of applicant No.1 as he was fully dependent on him. The said grievance was rejected and communicated to the Applicant No.2 in letter dated 16.1.2003 (Annexure-A/10) on the ground that the father of Shri Rabindra Naik is alive on the date of death of late Surendra Naik and as such, Shri Rabindra Naik cannot be considered to be the dependent brother of late Surendra Naik. Thereafter, on 16.7.2003 he made appeal to the General Manager,

E.Co. Railways and no order having been received (by filing this OA on 27<sup>th</sup> October, 2005) they have prayed for quashing the impugned order under Annexure-A/10 with a direction to provide employment on compassionate ground.

2. Respondents, by filing counter, have objected to the prayer of applicants on the ground that there is no record available with them that Applicant No.1 was the dependent brother of Surendra Naik, ex-railway employee. They have also stated that when his father was in employment, it cannot be said that applicant No.1 was dependent on his brother. They have maintained that one cannot be considered for appointment on compassionate ground in the event of death of bachelor railway employee unless his/her name is included in the pass/declaration maintained as per sub rule 17 of Rule 103 of the Pass Rules. Besides on merit, the Respondents have also objected the very maintainability of this OA on the ground of limitation.

3. Applicant has also filed rejoinder refuting the stand taken by the Respondents and also reiterating some of the facts mentioned in his Original Application.

4. Neither in the pleadings nor during submission learned counsel for the Applicant has produced any material to show that the Applicant No.1 was fully dependent on his deceased brother nor his brother nominated him to be a dependent on him. No record has also been produced at any point of time showing that Applicant No.1 and deceased employee were judicially separated and resided in separate mess. We have also gone through the circulars relied on by the applicant in his rejoinder. It says that brother can be provided employment on compassionate ground provided there is family declaration given by the employee including the name of his brother. Fact also remains that at the time of death of Surendra, his father was in Railway Service. Besides the death of the railway employee occurred during 1998 when Applicant No. 1 was aged about 20 years and he could be able to manage his affair for five years and approached this Tribunal on 27<sup>th</sup> October, 2005. Lapse of time itself is sufficient to forfeit the claim for employment on compassionate <sup>ground</sup> (**State of J & K and others v. Sajad Ahmed Mir**, 2006 SCC (L&S) 1195).

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5. Besides on merit, it is seen that though rejection order was made on 16.01.2003 against which appeal was filed on 16.07.2003, the Applicants have approached this Tribunal beyond the period of limitation provided under Section 21 of the A.T. Act, 1985.

Judging the matter in any angle, we find no merit in this OA which stands dismissed but there shall be no order as to

costs.

Moranjan Mohanty  
(M.R.MOHANTY)  
VICE-CHAIRMAN

B.B.Mishra  
(B.B.MISHRA)  
MEMBER(A)

KNM/PS.