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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO.538 OF 2006
CUTTACK, this the 15th day of November, 2007**

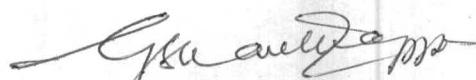
Urmila Dei Applicant

-Versus-

Union of India & others Respondents

FOR INSTRUCTIONS

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



(G.SHANTAPPA)
MEMBER(JUDL.)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO.538 OF 2006
(CUTTACK, this the 15th of November, 2007)**

CORAM:

HON'BLE SHRI G.SHANTAPPA, MEMBR(JUDL.)

Urmila Dei, aged about 23 years, D/O-Late Gokul Naik,
resident of Goda Bazar, P.O./P.S.Dist-Puri Town.

.....Applicant

Advocates for the Applicant

.....M/S.D.N.Nayak
P.Prushty & P.Behera

Versus:

1. Union of India represented through the General Manager,
East Coast Railway, At-Chandrasekharpur, Bhubaneswar,
Dist-Khurda.
2. Divisional Railway Manager, East Coast Railway, Khurda
Road, Dist-Khurda.
3. Superintendent, Cuttack Railway Station,
At/P.O./Dist.Cuttack.

.....Respondents

Advocate for the Respondents

.....Ms. S.L.Patnaik

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ORDER

HON'BLE SHRI G.SHANTAPPA, MEMBER(JUDL.):

The above O.A. is filed under Section 19 of the AT Act, 1985 seeking the following relief:

“The humble applicant whose unmarried brother who had worked as regular Sweeper under Cuttack Railway Station met untimely death out of station.

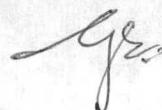
And the humble applicant the only unmarried, unemployed and the dependent sister of the Late Sweeper whose limited grievance to extend rehabilitation employment towards existing vacancy pot which awaits immediate gracious intervention of the Hon'ble Court for the survival of the applicant.”

2. The brief facts of the case according to the applicant are that the applicant is unmarried, unemployed and dependent sister of Late Nirmala Ch. Naik, the brother of the applicant was a regular sweeper under the Respondents and who died in harness on 09.11.95 leaving behind the father and mother of the applicant and the applicant. The family of the deceased was in a financial distress. Accordingly, she has approached the respondents for appointment on compassionate ground. The applicant was asked some of the documents. Accordingly, she has produced the documents i.e. legal heir certificate along with affidavit as per Annexure-5 series. When the request of the applicant for appointment on compassionate ground was pending before the respondents, then she has approached this Tribunal for a direction as prayed in the O.A. After issuing notices by this Tribunal, the respondents have produced the order dated 29.03.07 rejecting the request of the applicant. Since the O.A. is pending the same has not been challenged in the present O.A.

G.S.

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3. Per contra the respondents have filed a detailed reply statement rejecting the relief of the applicant on the ground that the applicant is not the dependent sister of ex-employee Late Nirmala Ch. Nayak. This is a case of 1995 which is about 11 years back case as on the date of O.A. The application dated 12.05.05 was addressed to General Manager, South Eastern Railway and to the Divisional Railway Manager, East Coast Railway, Khurda Road as per Annexure-6 in which she has prayed for appointment on rehabilitation ground as Sweeper in Khurda Division under E.Co. Rly. On verification of the old records available, it is seen that no such application has been received by the officer earlier except Annexure-6. Further, the representation dated 12.05.05(Annexure-6) has been examined by the competent authority from which it transpires that then applicant has worked as sweeper at Puri Railway Station during the car festival period since more than 12 years without any break. During the life time of her brother late Nirmal Chandra Naik, she was permitted to carry on temporary engagement as a sweeper. She had approached the Railway administration for compassionate appointment which was not considered. But she has not annexed any documentary evidence in support of her engagement during car festival period. According to her affidavit dated 17.01.96, her brother has expired on 09.11.95 leaving behind his father, mother and sister (applicant in the present case). At the time of death of her brother, her father was alive. As such it can not be accepted that she was dependant on her brother at the time of his death. So, her request for engagement on compassionate ground as dependant sister of late Nirmal Chandra Naik deserves no merit for consideration of the competent authority. Accordingly the representation dt.12.05.05 has been rejected by a speaking



order and the same was communicated to the applicant that has been acknowledged by the applicant. The appointment on compassionate ground relates to appointment given to the dependant of the Railway servants who lost their lives in course of duty or die in harness other wise while in service or are medically incapacitated/decategorised. Son/daughter/widow/widower of the employee are eligible to be appointed on compassionate ground in the circumstance in which such appointment are permissible. So in no case a sister can be considered for appointment for compassionate appointment. A sister cannot be considered as dependent of the late employee when father is alive. So the case of compassionate appointment in favour of the applicant does not arise.

4. When the case is called, none appeared from the either side. Hence, I invoke the Rule 15 & Rule-16 of the CAT Procedure Rules for the Applicant and for the Respondents respectively, perused the pleadings and documents and proceed to pass orders in this case.

5. The main ground of attack by the Respondents is that it is a case of the year 1995 and till the year 2005 there was no communication/representation from the applicant's side to the Railways. Hence, it is barred by limitation. Along with the reply statement they have produced the order dated 29.03.07.

6. It is an admitted fact from either side that the applicant is the sister of the deceased employee. The applicant has produced the necessary legal heir certificate and necessary documents to show that she is the legal heir of the deceased employee who died on 09.11.95 while in service. It is also an

A handwritten signature in black ink, appearing to read "M. G. S." or a similar name.

admitted fact that the father and mother of the deceased employee are alive but the Respondents are not disputing the penurious condition of the family. The respondent's main contention is that the applicant did not submit her application well in time. They have verified the old records that no such application has been received by the respondents except Annexure-6 dated 12.05.05. The same has been examined by the competent authority and passed the impugned order. The main objection of the Respondents is that the sister of the deceased employee is not eligible for appointment under the scheme for compassionate appointment. In the reply statement, they have referred that who are eligible under the scheme for compassionate appointment. It is relevant to extract the averment made in the reply statement as below:

“It is hereby submitted that appointment on compassionate ground relates to appointment given to the dependant of the Railway servants who lost their lives in course of duty or die in harness other wise while in service or are medically incapacitated/decategorised. Son/daughter/widow/widower of the employee are eligible to be appointed on compassionate ground.”

7. In the present case the deceased employee is unmarried. The applicant is the sister of the deceased employee, as per the scheme for compassionate appointment in the Railways which is referred to above, the applicant is not come within the purview of the persons who are eligible for appointment on compassionate ground. The impugned order of rejection though it was passed during the pendency of this O.A. is not challenged, the respondents have rejected the request on the ground that the father of the applicant was alive, it cannot be accepted that she was depending on her brother at the time of his death.



8. The Respondents are admitting that the family consisting of father, mother and the sister of the deceased employee. But they are referring the scheme that the sister of the deceased employee is not eligible for compassionate appointment. As referred in the O.A. that the family of the deceased employee was depending on the income of the deceased employee, that question has not been refuted by the respondents. The scheme for compassionate appointment is meant for the family of the deceased. The deceased employee is also a member of the family of his father since he was not married. The applicant is also a family member. The respondents have wrongly interpreted that the applicant is only dependent on the father of the applicant. The family of the deceased employee was depending on the income of the deceased. Hence, I consider the applicant is a member of the family till she get married. Admittedly she is unmarried. She is also a member of the deceased family. Hence the applicant is to be considered under the said scheme. The observation made in the impugned order that the applicant is dependant on the father of the deceased is not correct. The respondents are directed to consider the case of the applicant for compassionate appointment if she is not married. Before consideration of her case, the respondents are directed to verify whether the applicant is married and further directed to consider the case of the applicant for compassionate appointment and issue a considered and reasoned order in accordance with the scheme.

9. M.A.96/07 is also disposed of as it is not survived since the O.A. is disposed of.

10. With the above observation, this O.A. is disposed of. No costs.

Gaurav
MEMBER(JUDL.)