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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 852 of 2006
Cuttack, this the 17th day of March, 2009

Tava Rout Applicant
-Versus-
Union of India & Ors. Respondents.

FOR INSTRUCTIONS

1. WHETHER it be sent to reporters or not?
2. WHETHER it be circulated to all the Benches of the Tribunal or not?

(C.R.MOHAPATRA)
MEMBER(Admn.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.852 of 2006
Cuttack, this the 1st day of March, 2009

C O R A M:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER(ADMN.)

Tava Rout, aged about 60 years, W/o.Late Markanda Rout, Ex-Store Watchman, CBRI (Reg.), S.E. Railway, Birupa, permanent resident of Village Godipatia, PO. Sergada Makundipur, Via. Jenapur, Dist. Jajpur.

...Applicant

For the Applicant- M/s. N.R.Routray, S.Mishra
Versus

1. Union of India represented through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Senior Personnel Officer (Con.), East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. Chief Administrative Officer (Cons.), East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
5. FA & CAO (Con.), East Coast Railway, Rail Vihar Chandrasekharpur, Bhubaneswar, Dist. Khurda.
5. Deputy Chief Engineer/Con./D-II, East Coast Railway, Station Bazar, Town/Dist. Cuttack.

..... Respondents

Advocate for the Respondents: Mr.R.S.Behera, ASC.



ORDER

HON'BLE MR. C.R.MOHAPATRA, MEMBER(ADMN.)

The applicant, widow of a Railway employee by filing this Original Application challenges the action/inaction of the Respondents-Railway in not granting family pension as also DCRG amount after the death of her husband and accordingly sought direction to the Respondents to grant her family person w.e.f. 14.6.1989 i.e. from the date of death of her husband as well as DCRG with interest at the rate of 12% per annum.

2. Respondents by filing counter opposed the prayer of the Applicant in stating that family pension is payable to widow or eligible son/daughter only in the event of the death of a regular railway employee. As the husband of the applicant was not a regular employee and he was only a temporary status holder casual employee at the time of death, the widow i.e. the present applicant is not entitled to the relief claimed in this OA.

3. Heard rival submission of the parties and perused the materials placed on record.

4. Learned counsel for the Applicant, relying on the decision of the Hon'ble High Court of Gujarat in the case of **Rukhiben Rupabhai v Union of India and others, 2006 (2) ATJ page-1** has argued that the husband of the applicant is deemed to be a regular employee from the date he was conferred with the temporary status and in the event of his death the applicant ought to have been granted all retirement benefits which has illegally been denied to her. But we find that the aforesaid decision of the



Hon'ble Gujarat High Court has already been over ruled by the Hon'ble Supreme Court in the case of **General Manager, North West Railway and others v Chanda Devi**, (2008) 1 SCC (L&S) 399. Therefore, the decision in the case of Rukhiben (supra) is of no help to the Applicant.

5. As per the Rules, a casual labour is entitled to CPC scale only after conferment of temporary status and conferment of temporary status is made after completion of 120 days of casual service. It is also not in dispute that medical fitness is one of the pre-requisite conditions before one is taken to regular establishment of the railway/regularized/confirmed. From the record it is now conclusively established that before being medically examined, the husband of the Applicant died prematurely. Hence, he could not attain the regular status.

6. In view of the above, I find no merit in this OA. This OA stands dismissed. No costs.


(C.R. MOHAPATRA)
MEMBER(ADMN.)