

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No. 756 of 2002
Cuttack, this the 9th of July, 2003.

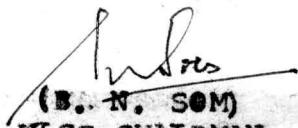
SMT. KOLLI PAPAMMA. **APPLICANT.**

: Versus :

UNION OF INDIA & ORS. **RESPONDENTS.**

FOR INSTRUCTIONS

1. whether it be circulated to the ~~Reporters~~ or net? **Ys**
2. whether it be circulated all the benches of the Central Administrative Tribunal or net? **AD**


(B. N. SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 756 of 2002
Cuttack, this the 9th day of July, 2003

CORAM:

THE HONOURABLE MR. B. N. SOM, VICE-CHAIRMAN.

SMT. KOLLI PAPAMMA,
W/o. Late Bairagi,
Aged about 57 years,
House hold duties,
resident of Golla Kanchili
village Kanchili,
PO: Srikakulam, Dist. Andhra Pradesh,
PIN Code: 532 290.

..... APPLICANT.

By legal practitioner: Mr. B. P. Yadav, Advocate.

:Vrs.:

1. The Chairman,
Railway Board, Railway Bhawan,
New Delhi.
2. The General Manager, South Eastern Railway,
Garden Reach, Calcutta, West Bengal.
3. The Divisional Railway Manager,
South Eastern Railway,
D. R. M. Office, Khurda Division,
Khurda Road, PO: Jatni,
Dist. Puri, Orissa.
4. The Assistant Engineer, South Eastern Railway
Berhampur, Dist. Ganjam, Orissa.

..... RESPONDENTS.

By legal practitioner: Ms. S. L. Patnaik,
Additional Standing Counsel.

O R D E R

MR. B.N. SETH, VICE-CHAIRMAN:

None appeared on behalf of the Applicant; nor was he present in person when called. However, Ms. S. L. Patnaik, Learned Additional Standing Counsel (Railways) appearing for the Respondents was present and with her aid and assistance, I have perused the records of the case placed before me.

2. By filing this original Application, the Applicant has prayed for a direction to be issued to the Respondents to grant her family pension on account of death of the husband of the Applicant, Late Bairagi, who expired on 29-12-1971. Her case is that the said Bairagi, the deceased husband of the Applicant, was selected as casual gangman on 17th May, 1966 in pursuance of employment notice No. E/Recruitment/6/1 dated Dec., 1963 and that, her husband was fit for the post of temporary gangman and was given appointment in that grade w.e.f. 19.6.7.1970. He was also granted temporary status from the said date. However, very soon thereafter, on 29.12.1971 her husband expired while in service. After the death of her husband, although the Respondents have paid the benefits of D.C.R.G. to her but no family pension has been sanctioned to her so far.

3. Respondents have contested the claims on all counts by filing a counter. According to the

Respondents the Applicant was engaged as Casual labour on 24.4.1968 and while working as such, he expired on 29.12.1979 without being regularised. They have also submitted that from the records available with them, before his death, the husband of the Applicant was never subjected to medical examination for regularisation. In the circumstances, they have submitted that as the husband of the Applicant died while he was in employment as casual labour, the Applicant is not entitled to family pension under the Rules. In this regard, they have also drawn my attention to the order of the Hon'ble Apex Court dated 05.04.2000 passed in Civil Appeal No. 15365/1996 (UNION OF INDIA AND OTHERS VRS. BALDEV SHARMA) wherein it was held that an employee who has been screened for temporary appointment but died subsequently, the members of the family of the said employee are not entitled to family pension. Learned Counsel for the Railways has also drawn my notice to another order of the Hon'ble Apex Court rendered in the case of UNION OF INDIA AND OTHERS VRS. SUKANTI AND ANOTHER ETC. (Annexure-R/3) wherein it was held that the widows of casual labourers who have not been regularised are not entitled to retiral benefits. We are also bound by our decision passed in C.A.Nos. 266, 267, 287, 288, 292 and 303 of 2001 disposed of on 10th day of December, 2002 (Smt. Ichhavati Bhutia and others vrs. Union of India and others) that casual workers are not entitled to family pension benefits.

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4. Having regard to the facts and circumstances of the case and the decision of the Hon'ble Apex Court in the matter, I see no merit in this original Application which is accordingly dismissed. No costs.


B.N. SOM 17/10/03
VICE-CHAIRMAN

KNM/CM.