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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 817 OF 2002  
Cuttack, this the 6th day of August, 2003.

Smt. Pilaka Yasedha.

....

Applicant.

: Versus :

Union of India & Ors.

....

Respondents.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? Yes.
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

*[Signature]*  
06/08/2003  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 817 OF 2002  
Cuttack, this the 6th day of August, 2003.

C O R A M:

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (J) .

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Smt. Pilaka Yasedha, W/o. Late Bhima Rao,  
Ex-Trackman, Aged about 30 years,  
House hold duties, resident of Jadupudi,  
Vill. & Post; Kanchili, via. Srikakulam,  
District- A.P. ....

Applicant.

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

: Vrs. :

1. Union of India represented by the Chairman,  
Railway Board, Railw Bhawan, New Delhi.
2. General Manager, South Eastern Railway,  
Garden Reach, Kolkata, West Bengal.
3. Divisional Railway Manager, South Eastern Railway,  
D.R.M. Office, Khurda division, Khurda Road,  
Po: Jatni, Dist: Puri., Orissa.
4. Permanent Way Inspector,  
South Eastern Railway, Sompeta,  
Kanchili, Post, Srikakulam,  
Dist. A.P. ....

Respondents.

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

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MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :

Applicant Smt. Pilaka Yasedha (the widow of late  
P. Bhima Rao, Ex-Senior Trackman, PWI/SPT, S. E. RAILWAY) has  
filed this Original Application under section 19 of the  
Administrative Tribunals Act, 1985 praying therein for a  
direction to the Respondents to give her appointment on  
compassionate ground.

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2. For considering the grievance of the Applicant, it is worthwhile to mention a few facts of the Original Application. Late P. Bhima Rao, while working as Senior Trackman under Permanent Way Inspector of South Eastern Railway at Sompeta, died in harness on 15.02.2000 leaving behind the widow and two minor children. In order to mitigate the hardship and the distress condition of the family his widow (the Applicant) had applied for providing employment on compassionate ground. The said grievance of the Applicant, having been turned down by the Respondents under Annexure-A/1 dated 25.5.2001, this Original Application has been filed with the prayer referred to above.

3. The Respondents have filed their counter disclosing therein that the family is in receipt of family pension amounting to Rs. 1275/- p.m. with usual T.I. and that they have received Rs. 45,251/- as the Death-Cum-Retirement Gratuity and Provident Fund. It has further been disclosed by the Respondents that the Applicant is not entitled to get compassionate appointment because her husband late P. Bhima Rao (the Ex-employee) was employed in Railways on compassionate ground and that further compassionate appointment is not available to be provided to the present Applicant.

4. Heard Mr. B. P. Yadav, Learned Counsel appearing for the Applicant and Ms. S. L. Patnaik, Learned Counsel appearing for the Respondents/Railways and perused the records.

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5. Before dealing with the rival submissions of the parties, it is relevant to quote hereunder the contents of the order (under Annexure-A/1 dated 25.5.01) rejecting the prayer of the Applicant;

"Reference above, it is informed that the instant case has been examined in detail and put up to the competent authority for decision.

The request for employment assistance on compassionate ground is not agreed to".

6. The Aim and object of framing the Rules/issuing executive instructions, for providing a member of the family in the case of death of a Govt. servant in harness, is to remove the distress condition of the family; which means the rehabilitation assistance is conceived as a compassionate measure of saving a family of a Government Servant from immediate distress when the bread earner suddenly dies or is permanently incapacitated. Such assistance is extended with a view to ameliorate the Government servant or his family from the brink of starvation. The above scheme has direct nexus with the economic condition of the concerned government servant and his family. Since the Rehabilitation schemes have been made as a social and beneficial measure, they are to be interpreted in such manner to give them a purposeful meaning with the object of doing social justice.

7. Here in the instant case, the grounds taken by the Respondents in the counter with regard to the

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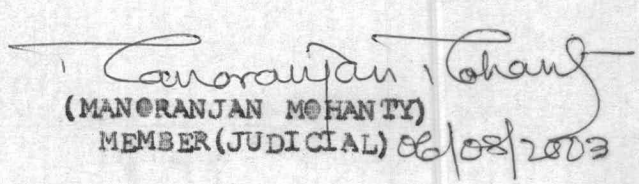
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receipt of the retiral dues of the family, is no more available to be taken; as the same is no more res-integra in view of various pronouncements made by the Hon'ble Supreme Court as well as by this Tribunal from time to time. In the cases of Balbir Kaur & another vs. Steel Authority of India & Ors. (reported in 2002(2) ATT (SC) 255, Mina Kumari Mohanty & another vs. Union of India & Ors. (reported in (1994) 2 ATT(CAT) 120 ) and Ranka Nidhi Sahoo vs. Union of India & Ors. (reported in 2002(2) 1 CJD (AT) 21, it has been consistently held that terminal benefits are not to be taken into consideration; while deciding the indigent condition (of a family) for providing compassionate appointment.

8. Next, coming to the moot question as raised in the counter that Late P. Bhima Rao having been appointed on compassionate ground, further compassionate appointment cannot be extended to his family following to his premature death. In this connection, as quoted above, the Respondents have not couched a single word in the order of rejection. Besides, there is no such rule shown to me, by which such appointment has been prohibited. Compassionate appointment might have been provided to late Bhima Rao for maintaining the livelihood of the family, but now that the Applicant, the widow of Bhima Rao has applied for compassionate appointment to redress the family from the distress (after the premature death of Bhima Rao, who was the sole bread winner of the family) equally deserves full consideration. It is also evident that the Respondents have not considered the indigent condition of the family of the Applicant.

They have also not cited the rules basing on which they have rejected the claim of the Applicant. The Hon'ble Supreme Court of India, have, time and again, also deprecated the action of the Respondents holding that cryptic order of rejection is not sustainable as also holding that the ground which is not taken in the order of rejection cannot be taken subsequently/in the counter (AIR 1978 SC 851-MOHINDER SINGH GILL AND ANOTHER VRS. ELECTION COMMISSIONER; and AIR (39) 1952 SC 16-COMMISSIONER OF POLICE VRS. GOVERDHAN DAS).

9. Viewed from all angle, it appears that the grievance of the Applicant for employment assistance on compassionate ground has not received due consideration properly. In the said premises, this O.A. is allowed; both the objections as raised in the counter, are hereby, over-ruled; the order of rejection under Annexure-A/1 dated 25.5.2001 is hereby quashed, and, as a consequence, the Respondents are hereby directed to reconsider the case of the Applicant for providing her appointment on compassionate ground and that too within a period of 120 days from the date of receipt of a copy of this order. No costs.

  
(MANORANJAN MOHANTY)

MEMBER (JUDICIAL) 26/08/2003