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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.260/00913 OF 2015
Cuttack, this the 21st Day of June, 2017

P. Ganeswar Rao & Another..... Applicant

Vs.

Union of India & Others ..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? No
2. Whether it be referred to Principal Bench for circulation? No

(R.C. MISRA)
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00913 OF 2015
Cuttack, this the 21ST day of June 2017

CORAM
HON'BLE MR. R. C. MISRA, MEMBER (A)

.....

P. Shyamala, aged about 53 years, W/o- P. Ganeswar Rao, At- Bandamunda, Sector-A, Qrs. No.77, PO. Bandamunda, Dist. Sundargarh.

...Applicant

(By the Advocate-M/s. B.S. Tripathy, M.K. Rath, J. Pati.

-VERSUS-

Union of India Represented through

1. The General Manager, South Eastern Railway, Garden Reach, Kolkata-43.
2. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata-43.
3. The Divisional Railway Manager, South Eastern Railway, Chakradharpur Railway Division, At/PO. Chakradharpur, Jharkhand, Dist.-West Singhbhum (Jharkhand).
4. The Sr. Divisional Personnel Officer, Chakradharpur Railway Division, At/PO. Chakradharpur, Dist.-West Singhbhum (Jharkhand).
5. The Chief Medical Director, South Eastern Railway, Central Hospital, Garden Reach, Kolkata-43.
6. The Chief Medical Superintendent, South Eastern Railway, Chakradharpur, At/PO. Chakradharpur, Dist.-West Singhbhum (Jharkhand).

...Respondents

By the Advocate- (Mr. T. Rath)

ORDER

R. C. MISRA, MEMBER (A):

The applicants in the present O.A. have approached the Tribunal making a prayer that the applicant's husband who has since expired may be declared to have retired on medical invalidation ground instead of retirement on superannuation. There is also a prayer for quashing of order dated 29.10.2015 as at Annexure-A/7 of this O.A.

2. P. Ganeswar Rao the original applicant in this O.A. has expired on 31.01.2016. During pendency of this O.A. applicant No.2 being his wife is prosecuting this O.A.

3. The facts of this O.A. are that the applicant's husband was working as Sr. Technician under C&W, S.E. Railway, Bondamunda. He died of cancer. Before his death, he was admitted in the Central Hospital, Garden Reach, Kolkata where he underwent surgery. There was no hope of recovery and therefore, he was discharged from the hospital on 26.01.2015. He made a representation on 19.02.2015 to the Chief Medical Director, South Eastern Railway, Central Hospital, Garden Reach, Kolkata (Respondent No.5) with a prayer that he may be examined by a Medical Board to determine his fitness to continue in the Railway service so that he could be allowed to retire on the ground of medical invalidation. After many representations the Respondent No.5 did not consider his case and therefore he approached the Tribunal in filing O.A. No.515/2015. This O.A. was disposed of on 20.08.2015 by the Tribunal with a direction to Respondent No.5 to consider and dispose of the representation of the applicant with a reasoned and speaking order. The Tribunal also directed that considering the gravity of the matter the Respondents may take emergent step to dispose of the representation according to the Rules. The Respondent No.5 i.e., the Chief Medical Director, South Eastern Railway, Central Hospital, Garden Reach, Kolkata disposed of the representation by an order dated 29.10.2015 which has been communicated to the applicant and forms the subject matter of challenge in this case. The Respondent No.5 in the impugned order stated that the decision to hold a Medical Board for an employee and to declare him unfit for further service on medical ground is a sensitive matter which requires careful

consideration of each case. The Respondents thought it to be their prime duty to provide all treatment to the patient so that they could have access to the condition through the Medical Board only when the diseases has rendered its natural course through complete treatment. However, the applicant was left with very small period of service and retired on 30.06.2015 on reaching the age of superannuation. The Medical Board could not be held during the short spell of time.

4. The Respondents in this case have filed a counter affidavit to which applicant filed a rejoinder. In the rejoinder he has revealed that the applicant No.1 i.e., the Railway servant expired on 31.01.2016. Accordingly, the applicant No.2 was allowed to prosecute this case. The Ld. Counsel for the applicant has pleaded that the Respondents should have conducted a special Medical Board to access the health condition of the applicant. However, they failed to do so and allowed the applicant to retire in normal course on reaching the age of superannuation. Thereafter, the applicant passed away. The submission of the Ld. Counsel is that the benefits of the retirement on invalidation may be extended to the family of the applicant.

5. I have heard the Ld. Counsels of both the sides and perused the records.

6. Replying to the submissions made by the Ld. Counsel for the applicant, the Ld. Counsel for the Respondents submitted that the applicant, husband has retired and also expired in the meantime and the Tribunal is not in a position to give relief in the matter. After hearing the arguments of Ld. Counsels of both the sides I am to observe that death is the final destiny of a human being on earth. The applicant, husband first retired from service on superannuation and thereafter he

has also finally retired from earth. The issue is whether the applicant's husband could have been examined by the Medical Board to determine his health status. For whatever reason this has not been done and after death no one can ever be produced before the Medical Board for examination. The Tribunal is not in a position to consider any relief in this case.

7. The Original Application thus being devoid of merit is dismissed with no costs to the parties.

(R.C. MISRA)
MEMBER(A)

K.B.