

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH: CALCUTTA

Original Application No. 855/96

Date of decision: 21-12-2004

Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member.

Hon'ble Mr. M.K. Misra, Administrative Member.

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Smt. Ganga Bala Sahoo, Widow of late Banamali Sahoo,
Ex Khalasi under D.E.N (Con) S.E. Rly, Kharagpur,
residing at Vill. Suranankar PO Panskura, Dist. Midnapore.

: Applicant.

Mr. A. Chakravorty : Counsel for the applicant.

versus

1. Union of India service through the General Manager, S.E. Rly, Garden Reach, Calcutta- 43
2. Sr. Divisional Personnel Officer, S.E. Rly, Kharagpur
3. Sr. Project Manager, S.E. Rly, Kharagpur.
4. District Project Manager, S.E. Rly. Kharagpur.

: Respondents.

Mr. U.D. Sen, Counsel for the respondents.

ORDER

Mr. Mukesh Kumar Gupta, Judicial Member.

The applicant in this case seeks the following
reliefs:

- 1) Declaration that the husband of the applicant is entitled to be regularised w.e.f. 1/4/73 against P.C.R. posts as some employees of the erstwhile construction unit very much juniors to the husband of the applicant in service have been regularised, w.e.f. 01.04.73
2. An order do issue directing the respondents to grant family pension and other pensionary benefits.

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3. An order do issue directing the respondents to fix the pay of the husband of the applicant w.e.f. 01.04.73 and to pay all the arrears.

2. The facts as stated are that the applicant's husband was appointed as Gangman under OEN/Construction, /S.E. Rly Kharagpur in the year 1964. He worked there till 15.03.83. Thereafter he was declared medically unfit and as such discharged from Railway service. He attained temporary status with effect from 01.01.81 as per the Railway Board Circulars issued in terms of Hon'ble Supreme Court's judgement in Inder Pal Yadav's case. The Railway Board vide Circular dated 24.12.73 decided to sanction 40% of the temporary non gazetted posts in each grade in the Construction Department as permanent posts as Construction Reserve with effect from 01.04.73. The Construction Reserve would cover projects including open lines in respect of work consisting of more than Rs. 4 lakhs. As such 253 posts of Khalasis were created with effect from 01.04.73. One Costa Behari Pati and others file O.A. No. 1185/89, before this Bench of the Tribunal seeking regularisation against permanent construction reserve (herein after referred to as 'PCR' posts) with effect from 01.04.73, which was allowed by this Tribunal vide its orders and judgement dated 12.07.94. Pursuant to the said direction and judgement numerous persons junior to the applicant's husband were regularised against PCR posts, which benefit has not been extended to the applicant's husband. It is contended that once the said benefit is granted and allowed to the applicant's husband, she would be entitled to family pension.

3. The respondents in their reply contested the claim stating that casual labourers who were on rolls as on 01.04.73 could not be accommodated against 40% PCR posts. The applicant's husband was in no way eligible for absorption against 40% PCR posts created with effect from 01.04.73. It is further contended that the applicant's relief is speculative in nature, besides being based on haphazardness.

4. We heard the learned counsel for the parties and perused the pleadings. We bestowed our careful consideration to the above facts. We are unable to appreciate as to how the applicant can institute the present application and prayed regularisation of her husband, which relief was applicable to him and could not have been inherited by her. It is not that casual labourers working on 01.04.73 were automatically entitled to absorption and regularisation against 40% PCR posts. The said regularisation was based on certain process which had to be carried out. Moreover, the present application was instituted in the year 1996 though the posts were created in the year 1973. Such being the case, we find justification in the contentions raised by the respondents that the applicant's entire case is based on surmises. Accordingly, we do not find any merit in the present O.A. and the same is dismissed. No costs.



M.K. Misra)
Administrative Member

jsv.



Mukesh Kumar Gupta)
Judicial Member.