



CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH,
CIRCUIT BENCH AT SHIMLA

O.A.NO.063/1384/2018

Reserved on: 27.02.2020
Pronounced on : 12.03.2020

Coram: Hon'ble Mr. Sanjeev Kaushik, Member (J)
Hon'ble Ms. Naini Jayaseelan, Member (A)

Sh. Balbir Masih s/o late Sh. David Goodwin, aged 25 years, working as daily wager privately, r/o village Ghlot PO Salogra Distt. Solan HP, Pin Code – 173 214.

.....Applicant

By Advocate : Mr. G.N. Verma

Versus

1. Union of India through the Ministry of Railway, Rail Bhawan 1, Raisina Road, New Delhi-110 0-01.
2. The General Manager, Northern Railway, NDCR building, State Entry Road, New Delhi-10 001.
3. The Sr. D.P.O. (Varish Karmik Officer) Northern Railway Ambala Cantt, Ambala, Haryana-133 001.
4. The Assistant Engineer, Northern Railway Shimla-133 001.

By Advocate : Mr. Anand Sharma Sr. Advocate with Mr. Karan Sharma

ORDER

By MS. NAINI JAYASEELAN, MEMBER (A)

1. Through the present OA, the applicant has assailed the order dated 05.08.2018/17.08.2018 whereby his case for compassionate appointment was rejected by Respondent No. 3 in accordance with the directions as



contained in order dated 16.03.2018 in OA No. 063/01373/2017 of Chandigarh Bench. The operative para of this judgement reads as follows:-

“Considering the ad-idem between the parties, and without going into the merits of the case, we dispose of the present OA with a direction to the competent authority, amongst the respondents, to decide pending representation of the applicant for appointment on compassionate ground in terms of the policy of the department. Let the above exercise be carried out within a period of two months, from the date of receipt of a certified copy of the order. Order so passed be communicated to the applicant.”

2. The applicant had prayed for appointment on compassionate grounds on account of death of his father on 25.09.2009 while in service. It was informed to the Department that the first wife of the deceased employee had expired in December, 1986. But at that relevant point of time, the applicant did not have the minimum educational qualification of 8th Class. The applicant was advised to apply again after obtaining the prescribed minimum educational qualification from a recognized Board. In the meantime, the Railway Board letter dated 09.12.2010 enhanced the prescribed minimum educational qualification for compassionate appointment from 8th class to 10th class. Based on an inquiry by the Welfare Inspector, the inquiry report



found the applicant's 10th class certificate to be genuine. As per the extant rules, appointment on compassionate grounds is to be made from the dependent family members viz. Spouse or son (including adopted son) or daughter (including adopted daughter) or brother/sister in the case of unmarried Government Servant, who is wholly dependent on the Government servant at the time of death in harness or retirement on medical grounds, as the case may be.

3. The Respondents' counsel contended that since the first wife of the deceased employee has died and now second wife/widow has also prayed for appointment under compassionate ground, her case is still under consideration and as she did not give the requisite No Objection Certificate to consider the case of the applicant for appointment on compassionate grounds, the case of the applicant was rejected vide order dated 05.08.2018/17/08/2018.

4. The Respondents in their reply statement have submitted that the present OA is not maintainable as the applicant has staked his claim qua



compassionate appointment not on the basis of most deserving legal heir of the deceased employee. As per RBE No. 3/2009, cases of compassionate appointments are to be considered by the competent authority in favour of widow/widower and thereafter in favour of any ward of her/his choice and in the present case, the widow of deceased employee Smt. Banti Devi has also requested for compassionate appointment in her favour which is under consideration.

5. We have heard the learned counsel for the parties and carefully gone through the pleadings on record. It is seen that the widow of the wife has not given requisite No Objection Certificate in favour of the applicant for appointment on compassionate grounds. Neither respondents have in their written statement mentioned the latest position of the case of compassionate appointment of the widow of the deceased employee except that her case is under consideration.

6. In view of the above, we dispose of this OA with the following directions:-



(i) Expeditiously process the case of the widow of the deceased employee for compassionate appointment as per the extant rules and RBE Circular No. 3/2009

(ii) If for any reason the compassionate appointment cannot be given to the widow, then based on the extant policy and after obtaining an affidavit/No Objection Certificate from the widow of the deceased employee, consider the case of the applicant for such appointment.

7. Needless to add that since the matter has lingered on since the death of the deceased employee on 25.09.2009, the Department is directed to comply with the above order within two months from the date of receipt of a certified copy of this order. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:
ND*

