



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA No. 517/2019

New Delhi, this the 6th February, 2020

HON'BLE MS. ARADHANA JOHRI, MEMBER (A)

Anita D/o Late Smt. Raj Rani
Aged-26 years
Group D/Parcel Porter
R/o Qtr No. T-56/A Railway Colony,
Rohtak, Haryana

....Applicant

(By Advocate: Ms. Neelima Rathore)

Versus

1. Union of India, through
General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Estate Entry Road, New Delhi.

....Respondents

(By Advocate: Sh. Satpal Singh with Ms. Neetu Mishra)

ORDER (ORAL)

1. The applicant's mother Smt. Raj Rani was appointed on compassionate grounds after the demise of her father Sh. Sita Ram who died in harness while working as SHS/Fitter in the office of CWS/Nizamuddin, Northern Railway, New Delhi. The applicant's mother expired on 11.09.2014. At that time, the



applicant has applied to the respondents for appointment on compassionate ground in lieu of her mother. This request was turned down by Divisional Personnel Officer, Northern Railway, New Delhi vide order No. APP/CG/18357/CG Cell (P) dated 04.12.2018 (Annexure A/1). By this order, it was stated that at the time of death of her mother, the applicant was married and not dependent on the Ex-employee. Therefore, her request for compassionate appointment was not considered by the competent authority.

2. The applicant has challenged this order of 04.12.2018 and stated that she is divorced from her husband. The case for divorce was instituted in the court of Additional District Judge, Rohtak on 04.07.2014 and the decree was granted on 09.01.2015 (Annexure A/4). She has filed DoP&T OM No. 1/12/09-P&PW (E) dated 19.07.2017 (Annexure A/10) regarding eligibility of divorced daughters for grant of family pension. The operative part reads as under:-

“6. The matter has been examined in this department in consultation with Department of Expenditure and it has been decided to grant family pension to a divorced daughter in such cases where the divorce proceedings had been filed in a competent court during the life-time of the employee/pensioner or his/her spouse but divorce took place after their death – provided the claimant fulfils all other conditions for grant of family pension under rule 54 of the CCS(Pension) Rules, 1972. In such cases, the family pension will commence from the date of divorce.”

4. She has also filed Railway Board OM No.



F(E)III/2007/PN1/5 dated 23.08.2017 (Annexure A/11) by which the said OM of DoP&T was adopted. It is her claim that as per these OMs, she is entitled for consideration for compassionate appointment, since the case for divorce was instituted before the death of her mother, even though the decree was granted after the death of her mother.

5. She has also filed a non-registered will of her mother Smt. Raj Rani dated 22.06.2014 to support her claim that she was dependent on her mother and is the sole legal heir who has total claim on all the moveable and immoveable property of her mother. She has prayed that the order dated 04.12.2018 be set aside and her case for compassionate appointment as Group D employee be considered.

6. The respondents have denied the claim of the applicant. Learned counsel for the respondents states that at the time of death of her mother, the applicant was married. Therefore, she cannot be said to be dependent on her mother and is thus not eligible for compassionate appointment. They have cited circular of Railway Board RBE No. 3/2009 (No. E (NG) II/98/RC-1/64). However, perusal of the circular reveals that it pertains to the delegation of powers for considering the cases of compassionate appointments and further it simply states that competent authority should satisfy himself/herself regarding the financial condition of the family, etc.



7. Heard Ms. Neelima Rathore, learned counsel for the applicant and Sh. Satpal Singh, learned counsel for the respondents.
8. Three issues need to be kept in mind while considering this case for compassionate appointment. The first of the issues is whether the applicant is eligible. In this case, the factum of applicant not being divorced at the time of death of her mother was considered by the respondents as rendering her ineligible. The applicant has filed the DoP&T OM dated 19.07.2017 as mentioned above in support of his case.
9. No doubt, the OA pertains to grant of family pension but the principles to be applied, would be the same. It is held that since her petition for divorce was filed before the death of her mother even though the decree was granted after her death, she cannot be considered ineligible for compassionate appointment in light of the aforementioned OMs.
10. The second issue is whether the applicant was totally dependent on her mother at the time of her demise. This issue is not within the scope of this OA since other factors needs to be examined by the competent authority.
11. The third issue which requires consideration at the time of compassionate appointment is whether any other legal heir is there. This also is not within the scope of this OA



and therefore, will have to be considered by the competent authority.

12. In view of the aforesaid, this OA is partly allowed. The impugned order holding the applicant ineligible for compassionate appointment on the basis of her marital status is set aside in light of DoP&T and vide letter No. No. 1/12/09-P&PW (E) dated 19.07.2017. However, on the other issues mentioned above, the applicant can agitate the matter with the respondents, who will pass a reasoned and speaking order as per rules and law within a period of two months of the application being made.

13. No order as to costs.

**(Aradhana Johri)
Member (A)**

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