

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.2266/98

HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 27th day of October, 1999

Smt. Kanti Devi
W/o Shri Vijay Kumar
R/o Y-2166, Mangolpuri
Delhi

...Applicant

(By Advocate: Shri Ashok Agarwal)

Versus

1. Union of India
Through Secretary
Ministry of Railway
Rail Bhawan, New Delhi

2. The General Manager
Northern Railway
Baroda House, New Delhi

....Respondents

(By Advocate: Shri B.S. Jain)

O R D E R

The applicant's husband, who was working as a Gangman in the capacity of a casual employee, died on 14.3.1985 leaving behind the applicant, one son and one daughter. The applicant had applied to the respondents on 20.10.86 requesting them to consider her case for appointment on compassionate grounds and another application was submitted on 14.4.87. In reply she was asked to submit her birth certificate and the education certificate. Further correspondence followed regarding the veracity of the school certificate. Though she made repeated representations, no final outcome came from the respondents. Her case was also taken up by some Members of Parliament but to no effect.

2. The respondents submit that the applicant's late husband was a casual employee working on daily rate basis. As he had not died on account of an accident while

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on duty the dependants of casual labourer were not entitled to compassionate appointment. The representation of the applicant was considered as a special case but as the applicant produced a false school certificate, showing her to be 10 years younger, she was not considered on that account also. (10)

3. I have heard the counsel. Shri Ashok Agarwal, learned counsel for the applicant submitted that though admittedly the widow of a casual employee is not entitled for compassionate appointment, in the present case once the respondents had decided to consider the applicant's case favourably, the same could not be rejected on the basis of a false allegation. The applicant had submitted a school certificate which the respondents had wrongly concluded to be a false certificate. The applicant had thereafter clarified the position and also produced another certificate from the school. Consequently, she was entitled to a fair consideration on the basis of the earlier decision of the respondents.

4. As held in Haryana State Electricity Board Vs. Naresh Tanwar and Others, , compassionate appointment is not a vested right which can be exercised at any time in future; it cannot be claimed and offered whatever the lapse of time and after the crisis is over. The applicant's husband died on 2.9.85 while the present O.A. has been filed after a lapse of 14 years in 1998. Further, as held in State of Haryana Vs. Rani Devi & Ors. JT () 1976 SC, the Supreme Court has held that the expression "deceased employee" does not include those who are ad-hoc employees. The deceased husband of the applicant was a casual employee and, therefore, this case does not fall

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under the accepted category for compassionate appointment. According to the learned counsel's argument the respondents had themselves taken a decision to consider this case. Such a decision if indeed taken by the respondents, being in the nature of a decision outside the rules and administrative instructions, cannot be enforced by the Tribunal.

5. In view of the above position, the Tribunal cannot intervene in the matter. The O.A. is accordingly dismissed. There will be no order as to costs.

R.K. Ahuja
(R.K. AHUJA)
MEMBER (A)

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