

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.526/91

DATE OF DECISION: 21.1.1992.

PADMA KUMARI SHARMA

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT SHRI V.P. SHARMA, COUNSEL

FOR THE RESPONDENTS SHRI R.L. DHAWAN, COUNSEL.

JUDGEMENT(ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

Heard the learned counsel for both the parties.

The father of the applicant, Late Shri Kishan Lal was working as Telephone Attendant at Loco Shed Rewari, in Bikaner Division of Northern Railway when he died on 3.8.1969. The deceased left behind two minor daughters. The present application is filed by Ms. Padma Kumari Sharma, second daughter of the deceased employee for compassionate appointment in the office of the respondents.

The respondents have referred us to Annexure-R-1, filed with their counter-affidavit. The paragraph 2 of Railway Board's letter (Annexure R-1) which is relevant is reproduced below:-

"(2) Appointments on compassionate grounds can also be made in the case of staff who die in harness but in such cases it should be restricted to a son/daughter/widow of the employee. Where the widow cannot take up

employment and the sons/daughters are minor, the case may be kept pending till the first son/daughter becomes a major, i.e., attains the age of 18. Such cases should be kept pending only for five years upto which the claim will lapse. However, in cases, coming under priority (4) (i) below, if an appointment could not be made within five years due to the son/daughter being minor; the GM may personally authorise relaxation of the five year limit in deserving cases."

According to the respondents the offer of appointment is to be made to the first son/daughter when they attain the age of 18 years if the children are minor at the time of death of the employee. These cases are normally kept pending for 5 years which period has since been extended to 10 years. Further according to the Railway Board's instructions dated 18.4.85 (Annexure R-2) the application for compassionate employment are to be filed in such cases as soon as the son/ daughter to be considered for compassionate appointment becomes major or within a maximum period of six months.

In the present case the first daughter became major on 3.12.1980, her date of birth being 3.12.1962. The respondents have come on record vide paragraph 4.4 of the counter that they received the first application from Ms. Radha Sharma the eldest daughter of the deceased on 29.9.1987, i.e., after 7 years of her becoming major. Her case was processed and she was offered appointment

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which she refused to accept vide her application dated 5.1.1988 as she got married in the meantime on 30.11.1987. The present application has been filed on 13.8.1988 by the second daughter. According to the extant instructions she is not eligible for compassionate appointment. It has not been brought out in the pleadings either by the applicant or by the respondents whether the second daughter will be recipient of the family pension consequent to the marriage of the eldest daughter. On our query to the learned counsel for the applicant it transpired that the family of the deceased is recipient of the family pension but the applicant having reached the age of 25 years would not receive family pension any longer.

The learned counsel for the applicant, however, very fervently submitted that the family is in very indigent circumstances and the case of the second daughter needs consideration by the respondents, particularly when she would no longer be eligible for family pension.

Keeping in view the facts and circumstances of the case we feel that it is a hard case and accordingly we commend it to the respondents to consider the case of the applicant for a suitable appointment in accordance with the extant rules, keeping in view the fact that the applicant is the sole dependent of the deceased employee. This, however, will not be quoted as a precedent.

There will be no order as to costs.

S. K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A) 2/1/92

21.1.92.

T. S. Oberoi
(T.S. OBEROI)
MEMBER(J)