

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 20th day of April, 2000.

Original Application No. 962 of 1997.

Hon'ble Mr. M.P. Singh, Administrative Member.

Smt. Pan Kunwar Devi, widow of late Tulsi Singh
resident of Q.N. 1201, Holmanpur,
C/O Sri Prem Chandra, Moghalsarai,
District Chandauli, U.P.

.....Applicant

C/A S.K. Misra

Versus

1. The Union of India through the General Manager, Eastern Railway, Calcutta-1.
2. The Divisional Railway Manager, Eastern Railway, Moghalsarai, Varanasi.
3. The Chief Personal Officer, Eastern Railway, Moghalsarai, Varanasi.
4. Shri Ranjeet Kumar S/O Late Tulsi Singh village Jahanpur, P.O. Phbadi, District Patna, Bihar.

...Respondents

C/A A.K. Gaur, K.K. Asthana, P.K. Asthana

O R D E R

Hon'ble Mr. M.P. Singh Administrative Member

The applicant is aggrieved by order dated 9.5.1997 rejecting her prayer for appointment on compassionate grounds:-

1. The brief facts of the case are that the husband of the applicant was appointed as a Fitter Grade III in carriage and Wagon department Eastern Railway Moghalsarai. He died in harness on 18.8.1988. The husband of the applicant left behind two minor children from the first wife and one from the second wife. The second wife (applicant) was the only person eligible for appointment on compassionate ground. Therefore, she made an application to respondent no. 2 for payment of all pensionary benefits and also requested for her appointment on compassionate ground. She was informed by the respondents that the payments of pensionary benefit, would be given to the children of the first wife as she is not a legal wife of her late husband Tulsi Singh. She was asked to produce a legal succession certificate within a period of one month.

2. The applicant filed a civil suit in the court of civil Judge Varanasi. The Civil court Varanasi vide this order dated 15.12.94 in suit no. 7/90 allowed the suit in her favour. After receiving a copy of succession certificate the respondents paid her half of the amount of pensionary benefits including

half pension i.e., Rs. 297-50 per month. She again made an application to the respondent no. 2 and 3 on 24.2.95 for her appointment on compassionate ground. The applicant was informed by the respondent no. 2 vide letter dated 9.5.1997 that her application for appointment on compassionate ground has not been approved by the competent authority. Her case was rejected on the ground that she had filed the application after 7 years of her husband's death and the son of the first wife of her husband named Ranjeet Kumar has also put forward his claim for appointment on compassionate ground. As the application for appointment on compassionate ground was rejected by the respondents, the applicant has filed this OA seeking direction to quash impugned order dated 9.5.1997 passed by the respondents. She ^{has} also sought direction to the respondent to appoint her on a suitable post in the Railways in place of her late husband.

3. The respondent in their reply have stated that the applicant has approached the Administration after 7 years and 24 days after the death of her husband for her appointment. On an enquiry, it has been found that the petitioner is the second wife of the deceased employee. Her husband late Tulsingh had not taken permission for second marriage; hence her request for compassionate appointment has been turned down by the competent authority. Moreover, Shri Ranjeet Kumar the son of late Sri Tulsingh (first wife) has also applied for

compassionate appointment. According to them, if the widow petitioner thought herself to be the legal married wife of late Sri Tulsi Singh, she should have immediately applied for her compassionate appointment. She did not do so and waited for 7 years.

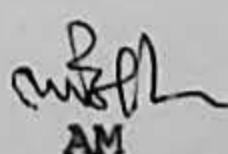
4. The respondent no. 4 namely Sri Ranjeet Kumar in his counter reply has stated that the applicant has obtained fictitious succession certificate from the Civil court Varanasi. He has alleged that the applicant is not a legal wife of late Sri Tulsi Singh and hence she has no right to move an application to Railway authority for appointment on compassionate ground. At the time of his father's death he was minor, but now he has became major. He is, therefore, eligible to get a job on compassionate ground. According to him the respondents have rightly rejected to claim of the applicant.

5. Heard both the learned counsels for the applicant and the learned counsel for the respondents at length and persued the record. According to paragraph III (a), (iii) of the guidelines issued by the Railway Board for appointment on compassionate ground on 12.2.90, a clear certificate should be forth-coming from the widow that the "near relative" will act as the bread-winner of the family. In such cases, the competent authority should be satisfied about the bonafides of the request of the widow or if there is no surviving widow, of the family, that appointment should be given to the minor son (when he attains majority) instead of the daughter or a employed son who is already a major. It is not disputed that respondent no. 4

W.H.

Ranjeet Kumar is the son of the deceased Government servant from the first wife. Both the applicant as well as the respondent no. 4 have put forth their claims for appointment on compassionate ground. These guidelines further provide that when offering appointment on compassionate grounds to a widow, son, daughter, etc., it need not be checked whether another son, daughter is already working; but in no case should there be more than one appointment against one death/medical incapacitation. For example, it should not be permitted where the family wants another son or daughter to be employed in lieu or in addition to an appointment already made on compassionate grounds. In other words, only one appointment on compassionate ground can be made on the death of a Government Servant. However, in this case there are two claimants for appointment on compassionate ground and as per rule both the claimants i.e., applicant and the respondent no. 4 cannot be appointed on compassionate ground. The respondents have, therefore, rightly rejected the claim of the applicant for appointment on compassionate ground.

6. In view of the above, the application is devoid of merit and is, therefore, dismissed. There shall be no order as to costs.


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