

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Original Application No. 758 of 2001  
this the 26th day of May 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Maharaji Devi, w/o late Sri Ram Chandra, R/o Village Mehewan  
Kalan, Post Nahwai, District Allahabad.

Applicant.

By Advocate : Sri R. Pathik.

Versus.

1. Union of India through Secretary, Ministry of Railways, New Delhi.
2. D.R.M., N.R., Allahabad.
3. Sri Ram Abhilash, S/o late Sri Sewai Lal, R/o Village Mahewa Kalan, post Nahwai, Tehsil Meja, District Allahabad.

Respondents.

By Advocate : Sri G.R. Gupta.

O R D E R (ORAL)

By this O.A., applicant has sought the following relief(s):

- (i) issue a suitable direction according to Rules to give employment to the applicant forthwith in place of her late husband who died in harness during the tenure of his service.
- (ii) issue a suitable direction according to Rules to dispense with the services of Ram Abhilash (respondent no.3) who has been illegally employed in place of the husband of the applicant and thus oust from service.
- (iii) -----.
- (iv) -----."

2. It is submitted by the applicant that her husband late Sri Ram Chandra died on 17.11.1986 in Railway hospital, Allahabad leaving behind his widow-applicant and four minor daughters. Since the applicant was compelled to bear the expenses of her minor daughters and had to bear the burden of growing ~~reintenance~~ <sup>them up &</sup> and to look after

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them, she could not apply for compassionate appointment. Therefore, brother of late Sri Ram Chandra gave an application for grant of compassionate appointment with clear condition that ~~he~~ will make all efforts for livelihood of the applicant and her four daughters. He also gave an undertaking to the railway administration that in case the department receives any complaint against him for not maintaining the family of the deceased, the railway administration would be free to remove him from railway service. The affidavit is annexed as Annexure A-1 to the O.A. Accordingly, the respondent no.3 i.e. brother of the deceased was given appointment on compassionate grounds in place of the applicant late husband Sri Ram Chandra.

3. Once he got appointment, he forgot his promise made in the affidavit and not only started neglecting the applicant and her four daughters, but also stopped financial assistance to the applicant and her four daughters, therefore the applicant gave an affidavit before the D.R.M., N.R., Allahabad stating therein that he is a clever and cunning man who obtained thumb impression of the applicant by fraud and got appointment in railway in place of her late husband. Therefore, she had requested that his appointment may be cancelled and in his place, she be given compassionate appointment (Annexure A-2). Thereafter, under some wrong advice, applicant's son-in-law namely Prem Nath filed an O.A. in this Tribunal, which was dismissed as Sri Prem Nath had no locus in the matter. Thereafter, applicant filed writ petition before the Hon'ble High Court at Allahabad, but the same was also dismissed on the ground that the remedy lies in the Central Administrative Tribunal in view of judgment given by the Hon'ble Supreme Court in the case of L.Chandra Kumar. Therefore, the applicant was forced to file the present O.A.

4. The respondents on the other hand, have opposed this O.A. and have submitted that the respondent no.3 was

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given appointment on the request of the applicant herself therefore she is not entitled to now say that she should be given compassionate appointment as nobody can be considered for compassionate appointment for second time. In the instant case, since the respondent no.3 was given appointment only after the applicant had given her consent and after completing all the formalities, the present O.A. is not maintainable, therefore, the same is liable to be dismissed with costs. They have relied on Railway Board's letter dated 25.8.90 as well as applicant's own application. The respondents have also submitted that no such affidavit was received in the office as maintained by the applicant. They have further submitted that the story cooked up by the applicant that her thumb impression was taken by fraud and got appointment in the railway in place of her husband is not sustainable because she had indeed given a letter in writing to the department stating therein that she had understood everything as explained to her by the officers and had agreed that the appointment may be given to the respondent no.3.

5. I have heard both the counsel and perused the pleadings as well.

6. The respondents have themselves annexed the Railway Board's letter dated 9.9.80 wherein para 3 for ready reference reads as under :

"If the family certified at a later date that the near relative who was appointed on compassionate grounds, refused to support the family, the services of that employee will be liable to be terminated."

The respondents have, however, relied on para 4 of the same circular, which for ready reference reads as under :

"once a near relative is appointed on compassionate grounds, no further appointment should be given later to a son or a daughter or the widow of the employee on compassionate grounds."

para 3 of the aforesaid circular clearly shows



that if a person is given compassionate appointment as a near relative and later on he refuses to support the family of the deceased employee and the family of the deceased employee certifies that they are not being supported by the person who has been given compassionate appointment, the services of that employee will be liable to be terminated. In the instant case, it is a specific case of the applicant that after the death of her husband, she has four small daughters to look after ~~now~~, therefore, she could not take appointment on compassionate grounds and the same was given to the brother of the deceased employee with clear understanding that he would take care of his brother's family, but once he got appointment, he is not maintaining the family of the deceased employee which was reported to the officers concerned. Since the respondents have stated that they have not received any such affidavit, I am remitting back this matter to the authorities concerned to consider the case of the applicant in the light of the circular annexed by the respondents themselves as Annexure CA-4 and to call the respondent no.3 as to why he is not supporting the family of the deceased employee. Incase, it is found that the respondent no.3 is neither supporting the family of the deceased employee, nor is intending to do so even-after his explanation is called, the respondents shall take an appropriate action as given in the aforesaid circular in para 3. I am sure if the respondents take-up this matter in the proper prospective and with a view to help ~~the~~ the applicant, some sort of compromise would be arrived at as a result of which some amount of the salary of the respondent no.3 could be sent to the applicant straightway through crossed cheque. Since the ~~other~~ matters ~~which~~ can be easily ~~sort~~ed out by the respondent, there is no need to give any further direction in this regard. I am sure that the senior officers of the respondents would take care and pass appropriate orders in accordance with law

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within a period of four months from the date of communication of this order, under intimation to the applicant.

7. With the above directions, the O.A. stands disposed off with no order as to costs.

  
MEMBER (J)

GIRISH/-