

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

LUCKNOW
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1476 OF 2004

ALLAHABAD, THIS THE 15TH DAY OF JULY 2005

HON'BLE MR. K. B. S. RAJAN, MEMBER (J)

1. Smt. Bhagwan Devi widow of Late Shri Hari Singh
Ex-MSM under CSTI/Agra r/o House No.59/151 Shyam Nagar Khari
Mor. AGRA.
2. Km. Baby Kushwah, D/o Late Hari Singh ex MSM
Under CSTI/Agra r/o House No.59/151 Shyam Nagar, Khari Mor,
AGRA.

..... Applicant

(By Advocate : Shri Sudama Ram)

V E R S U S

1. Union of India through General Manager, North Central Railway,
Headquarter Office, Allahabad.
2. General Manager, North Central Railway, Headquarters Officer,
Allahabd.
3. Divisional Railway Manager, North Central Railway, Jhansi.
4. Divisional Railway Manager, North Central Railway, New Delhi. *Agan k*
5. Secretary (Estt.) Railway Board, Railway Bhavan, New Delhi through
Executive Director (E) Res./Railway Board, Railway Bhavan, New Delhi.

..... Respondents

(By Advocate: Sri Anil Kumar)

O R D E R

By Hon'ble Mr. K. B. S. Rajan, Member (J)

This is the second round of litigation. In the earlier round vide order dated
03.12.2003 in O.A. No.473 of 2003 the following order was passed:

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"In view of this, the O.A. is disposed of with direction to respondent No.1 to consider and decide the representation dated 25.03.2003 as per rules, considering all aspects given in the representation filed by the applicant within a period of three months from the date of receipt of this order. The applicant may file a representation to respondent No.1 to facilitate the process of deciding the representation along with the copy of this order."

2. On 15.12.2003, the applicant had made a representation to the General Manager to consider her case for compassionate appointment. The applicant No.1 had made representation to General Manager North Central Railway to consider the case of applicant No.2 for a Group 'C' post either at Jhansi Division or Agra Division. Vide the impugned order dated 15.03.2004 and 08.09.2004 the D. R. M. Jhansi had informed the applicant No.1 that the matter was referred to G.M. (P) Allahabad who had advised that the instructions to grant compassionate appointment of Km. Baby Kuswah daughter of Late Hari Singh had already been issued as directed by Hon'ble CAT Allahabad's order dated 03.12.2003 as a special case for Group 'D' post.

3. Being aggrieved by the above said orders, the applicant has moved this O.A. praying for the following reliefs:

- (i) The Hon'ble Tribunal may graciously be pleased to quash the impugned orders dated 15.03.2004 (Annexure A-1) and 08.09.2004 (Annexure A-2) and direct the General Manager, N. C. Railway Allahabad (respondent no.2) to consider the case of applicant No.2 (viz Baby Kushwah) for suitable group 'C' post keeping in view of her educational qualifications as per existing instructions of the Railway Board.
- (ii) The Hon'ble Tribunal may further be pleased to direct the respondents to consider the compassionate appointment of the applicant No.2 by DRM, N.C. Railway, Agra instead of Jhansi Division as the deceased railway was working at Agra which is now in Agra Division in order to mitigate her hardship.

4. The counsel for the respondents has stated that a perusal of the order dated 03.12.2003 would make it clear that the direction given by the Tribunal is to decide the representation dated 25.03.2005 as per the rules, considering all aspects given in the representation and that permission has been given to the



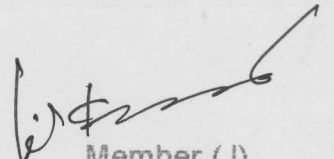
applicant to file fresh representation to the respondent No.1 to facilitate the process of deciding the representation. In view of this direction, the counsel for the respondents says that the applicant has been considered for a Group 'D' post only.

5. The counsel for the respondents further stated that as per the para 2(H) as well as para-3 of the counter affidavit, at present there is no vacancy in Group 'C' post nor there is any such mandatory rule to appoint any person on Group 'C' post as per qualification.

6. Though it is true that no vested right is available for anyone to seek compassionate appointment especially to a particular post, as the applicant prayed for compassionate appointment either in Agra Division or in Jhansi Division and as it appears that non-availability of vacancy is only in relation to Jhansi Division wherein the case of the applicant has so far been considered, it would be in the interest of justice if the General Manager considers the case for appointment in a Group 'C' post of the applicant no.2 in Agra Division as the deceased railway employee was serving in Agra prior to bifurcation of Agra Division. For this purpose the seniority of the application of the applicant can be taken as from the date when such application has been made for the compassionate appointment for the first time by applicant No.1 on behalf of the applicant no.2. In case the applicant fulfills the ~~consideration~~ condition and is ~~even~~ deserving amongst other candidates, the General Manager, North Central Railway, may consider offering appointment in Group 'C' post to the applicant in accordance with the extant rules. In case of non-availability of such vacancy the General Manager can pass the order offering appointment of applicant No.2 in Group 'D' post in accordance with the rules and according to the seniority of the application and in case such offer is not accepted within the specified period, the applicant may not be appointed in that post.

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7. The Original Application is disposed of. No order as to costs.


Member (J)

Shukla/-