

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH :ALLAHABAD**

ORIGINAL APPLICATION NO.398 OF 2004

ALLAHABAD THIS THE 10th DAY OF MAY, 2007

HON'BLE DR. K.B.S. RAJAN, J.M.

1. Smt. Parwati Devi, W/o late Panna Lal, R/o C/o Vijendra Narain, Parmapur, Ranai Patti, Mirzapur.
2. Rajesh Kumar Gupta, S/o Sri Panna Lal, R/o C/o Vijendra Narain, Parmapur, Ranai Patti, Mirzapur.

.....Applicants

By Advocate: Shri A. Srivastava

Versus

1. Union of India through the General Manager, Baroda House, New Delhi.
2. Railway Board, Rail Bhawan, New Delhi through Dy Director Esstt (A).
3. The General Manager, DLW, Varanasi.
4. Sri Jai Prakash Gupta, , S/o Chotey Lal Gupta, Head Clerk, DLW, Varanasi.

.....Respondents

By Advocate : Shri K.P. Singh

ORDER

The Railways, as a welfare measure of the family members of the Railway employees introduced the scheme of Compassionate Appointments to any of the family members of the deceased railway employees but at times, the benevolence of the railways does not reach the actual beneficiaries and this case is one such example.

2. The applicant is the widow of late Panna Lal, who died at the early age of 30 years and the young widow at the time of her husband's demise was having tender children, two daughters and a son to look after. She being uneducated, had requested for compassionate appointment of her brother in law Shri Jai Prakash Gupta, and after completing the formalities, her brother in law was given the compassionate appointment. In fact according to the applicant, she was not made known of any of the conditions to which she had accepted in respect of this compassionate appointment. Shri Jai Prakash Gupta after getting the compassionate appointment, supported the family of the applicant for some time but later on he had stopped supporting the applicant. At present the said Jai Prakash Gupta is working as Head Clerk, D.L.W and ticket No. is 57/03/04327.

3. Being totally neglected by her brother in law, the applicant some how managed the family and when her son attained the majority, she applied for compassionate appointment for her son and in this regard she had penned a few representations in 1999 (Annexure 3 and 4) wherein she had disclosed the deceitful means by which her brother in law had secured the compassionate appointment but failed to maintain the family of the applicants and optimistic responses were no doubt received from the railways, vide order dated 18-03-2002 (Annexure A-5) and 8-5-2002 (Annexure 6) as well as order dated 10-05-2002

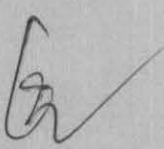
(Annexure 7) whereby the applicant along with her son was asked to attend the office of the Third Respondent. But since thereafter, there being no further progress, the applicant has moved this OA. In this OA, she had impleaded Shri Jai Prakash Gupta as the Fifth Respondent.

4. Though notices were issued, it is not exactly known whether the private respondent was served or not.

5. Official respondents have filed their version. According to them, as per the extant rules, once a compassionate appointment has been granted, a second compassionate appointment is not provided vide Annexure CA 4 and in this case specific undertaking had been called for vide Annexure CA 2 from the applicant that she would not claim compassionate appointment in the event of her brother in law being given the employment.

6. The applicant has filed the rejoinder, in which the contention of the OA has been reiterated.

7. Counsel for the applicant submitted that it is unfortunate that the fifth respondent has thoroughly ditched the applicant. He had invited the attention of the court to the endorsement under CA 2, which is a communication addressed to the applicant, but through the fifth respondent and according to the counsel, the fifth respondent never disclosed what was the condition attached to the compassionate



appointment and by deceitful and fraudulent means, he had got the signature of the applicant. Now, the applicant and her family are in the verge of starvation and this is a fit case where action should be taken against Shri Jai Prakash Gupta, the brother in law of the applicant in accordance with the provisions of the Rules and on arriving at the finding that he had deceitfully obtained the appointment, he should be removed from service and in his place the son of the applicant be given compassionate appointment.

8. It is seen that provision exists for taking action against such persons who are given compassionate appointment but who fail in their duties to look after the family of the deceased. Circular dated 23-04-2002 at Annexure A-11 refers. Provisions of this letter, if invoked against erring individuals, would ensure that grant of compassionate appointment is not misused. It is for the Railways to take necessary action in this regard. The plight of the poor widow, who had to shoulder the responsibility of maintaining her children since their infancy could well be imagined. Thus, though the Railways had exhibited their benevolence, the fruits could not reach the deserving and some one in the intermediate stage reaps the fruits. Such a situation should not be allowed to grow, for, since the provisions are strict that there cannot be any second compassionate appointment, the affected family would continue to

be deprived of the benefits available in the Scheme. And thus, in this case, unless, on finding that the fifth respondent is guilty of not maintaining the family of the applicant and as a consequence removed from service, the applicant or her family members cannot be given any compassionate appointment.

9. In one case of Uma Shankar Dwivedi vs Union of India and others (OA No. 415/98), this Tribunal had, vide order dated 25-08-1995 held as under:-

"Para 7 According to instructions issued by Railway Board, where near relative is given compassionate appointment for the reason that the deceased employee has left behind him a minor son or daughter, a clear certificate should be obtained from the widow that the "near relative" will act as bread winner of the family. Where the near relative who was appointed on compassionate ground refuses to support the family, the services of that employee will be liable to be terminated. There is no material before me to show whether the respondents obtained such a certificate from the widow of late Doodh Nath Dwivedi that Gokaran Nath Dwivedi stated to be nephew of the deceased will act as the bread winner of the family. There is no material before me as well to show that said Gokaran Nath Dwivedi refused to support the family. The inquiry which the respondents were directed to hold, does not appear to have been held in the right perspective. The slender material before me is, therefore, not sufficient to hold that Sri Gokaran Nath Dwivedi has already been appointed on compassionate ground so as to debar the applicant from seeking compassionate appointment. The matter, therefore, requires

future investigation by holding confronted enquiry.

8. For the reasons stated above, this application is allowed in part and the respondents are directed to hold fresh inquiry with notice to the applicant to ascertain whether certificate that Sri Gokaran Nath Dwivedi will act as bread winner of the family, had been obtained from the widow of the deceased Government employee before appointing Sri Gokaran Nth Dwivedi on compassionate ground. Incase, on enquiry, it is found that the necessary formalities had not been complied with or that Sri Gokaran Nth Dwivedi has obtained compassionate appointment by making false representation, necessary action for terminating the services of the said Gokaran Nath Dwivedi be taken and in his place the applicant be appointed on a appropriate post."

Such a course of action is readily warranted in this case as well.

10. The respondent No. 3, the G.M. D.L.W. Varanasi, is therefore, directed to look into the matter personally and take suitable action against Shri Jai Prakash Gupta. In the event of his services being terminated, the applicant's case for compassionate appointment be considered. If the said Jai Prakash Gupta undertakes to maintain the family, there may not be any need to consider the case of the applicant. The applicant be kept informed of the action taken. This order be complied with, within a period of six months from the date of communication of this order.

11. With the above directions, the OA is disposed
of. No cost.



MEMBER-J

GIRISH/-