

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH; ALLAHABAD.

Original Application No.588 of 2004.

ALLAHABAD THIS 01<sup>st</sup> DAY OF MARCH 2005.

HON'BLE MR. A.K. BHATNAGAR, MEMBER-J.

Smt. Sunita Devi  
w/o late Sri Ramesh Kumar Singh,  
Resident of B-38/4-1,  
Gangapuri Colony, Mohmoorganj,  
Varanasi District Varanasi.

.....Applicant.

(By Advocates: Sri A. Mishra/Sri A.K. Gupta)

Versus.

1. Union of India through the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager, Diesel Locomotive Works, Varanasi U.P.
3. Deputy Chief Personnel Officer, Diesel Locomotive Works, Varanasi.

.....Respondents.

(By Advocate: Sri K.P. Singh)

**ORDER**

By this O.A., the applicant has prayed for a direction to the respondents to consider the claim of the applicant regarding for the appointment under Dying in Harness Rules. He further prayed for quashing the order dated 14.03.2002 passed by Deputy Chief Personnel Officer, D.L.W. Varanasi with further direction for giving the entire benefits to the applicant after giving the appointment under Dying in Harness Rules.

2. The brief facts as per the applicant are that the husband of the applicant was appointed on

*Am*

the post of Technician/Machinist (Training) on compassionate ground after death of his father. Unfortunately, he also died after completing 2 years and 11 months training which was for three years i.e. just before one month from completion of training. The applicant applied for the post after the death of her husband on compassionate ground, which was rejected by respondent No.3 on the ground that there is no rule for giving benefit of Dying in Harness Rules after the death of a trainee. After the rejection order, the applicant moved an application before respondent NO.2 but no heed was paid to her request hence she filed this O.A.

3. The main argument of the counsel for the applicant is that the order passed by the respondents filed as Annexure A-2 is itself not sustainable in law as the appointment on any post on compassionate ground should be treated as permanent appointment, therefore, the applicant being his widow is entitled for applying for the post on compassionate ground.
4. Learned counsel for the applicant placed reliance on the judgment of Hon'ble Allahabad High Court in the case of Ravi Karan Singh Vs. State of U.P. and others-1999 (2) E.S.C. 972 (Alld.). In support of his claim in which it is held as under:

"In our opinion, an appointment under the Dying in harness Rules has to be treated as a permanent appointment otherwise if such appointment is treated to be a temporary appointment then it will follow that soon after the appointment the service can be terminated and this will nullify the very purpose of Thy Dying in Harness Rule because such appointment is intended to provide immediate relief to the family on the sudden death of the bread-earner.

*Am*



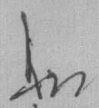
We, therefore, hold that the appointment under Dying in Harness Rule is a permanent appointment and not a temporary Government Servant (Termination of Services) Rules 1975 will not apply to such appointments".

5. Resisting the claim of the applicant, respondents filed the counter affidavit and submitted that the case for the applicant was sent for consideration to the Railway Board filed as Annexure CA-3 and after considering the case of the applicant, it was not found to be possible to consider the case of the applicant as per extent rules. He further submitted that the case of the applicant and his one son for getting compassionate appointment has been considered but the same has not been agreed to, as the extent policy governing appointment on compassionate grounds does not provide any job on compassionate ground to the dependent family members of those who die during the course of training.
6. I have heard counsel for the parties and perused the records available before me.
7. The contention of the applicant's counsel that the applicant was appointed on compassionate ground and was sent for three years training who unfortunately died before just one month of completion of training so he should be treated as a permanent employee of the respondent's establishment, therefore, his widow is entitled for consideration of compassionate appointment treating her husband as the permanent Government employee.
8. In view of the submission made by the counsel for the applicant and in the light of the judgment of the Hon'ble High Court in Ravi

*Dr*

Karan Singh (Supra), I am of the view that the applicant is entitled for consideration for appointment on compassionate grounds.

9. In view of the above, the order passed by the respondent dated 14.03.2002 is liable to be quashed. Accordingly, it is hereby quashed. Applicant may file a fresh representation for her claim for appointment on compassionate ground in the light of the above observation before the Competent Authority within 15 days from the date of receipt of a copy of the order and if the same is filed before him, he shall consider and decide the same by a reasoned and speaking order within a period of three months from the date of receipt of such representation along with a copy of this order.
10. The O.A. stands disposed of with the above direction.

  
Member-J

Manish/-