

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBURAL
ALLAHABAD BENCH: ALLAHABAD.**

WEDNESDAY, THIS THE 16TH DAY OF MAY, 2007.

QUORUM : HON. MR. JUSTICE KHEM KARAN, V.C.

ORIGINAL APPLICATION NO. 1086 OF 2005.

1. Smt. Urmila, aged about 43 years, wife of, late Shri Hari Ram Bhoorey Lal, R/o, 28/10, Puncukuiyan, Jhansi.
2. Ashok, aged about 25 years, S/o, late Shri Hari Ram Bhoorey Lal, R/o, 28/10, Puncukuiyan, Jhansi.

.....Applicants.

Counsel for applicant: Shri R.K. Nigam.

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.
3. Smt. Kesar wife of Shri Suttoo resident of near Jai Balaji Bak Vidhya Mandir, Nehru Ngar, Lalitpur.

.....Respondents.

Counsel for Respondents: Sri Ravi Ranjan.

ORDER

The applicant No.1 claims herself to be the widow of Late Hari Ram Bhure Lal and Applicant No.2 is son. It is prayed that Respondent Nos.1 and 2 be commanded to give compassionate appointment to Applicant No.2 in group 'D' under dying-in-harness rules.

2. The case of the applicants, in brief, is that late Hari Ram was employed in the service of Railways and he died on 3.3.2000, while still in service. It is said that Applicant No.1 gave representation dated 17.3.2000 (A-2) to the Respondents to give compassionate appointment to her son, Applicant No.2. But the Respondent No.2 asked her to prove her status of being the widow of late Hari Ram, since another lady named Smt. Kesar was also claiming to be the widow of late Hri Ram, it is averred that the Applicant No.1 filed Original Suit No.334/2000,

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Smt. Urmila Vs. Kesar in the court of Civil Judge (Junior Division), Jhansi impleading Smt. Kesar as the Defendant. It is alleged that Smt. Kesar put in appearance and filed her written statement and affidavit, alleging herself to be the wife of Sattu. The suit was decreed ex-parte on 31.10.2003. Copy of Judgment dated 31.10.2003 is Annexure-4. It is claimed that this Judgment has become final. It is complained that Kesar Bai surreptitiously obtained succession certificate from a Court succeeded in getting terminal benefits on the basis of the same.

3. The respondents have contested the claim. They have said that since Smt. Kesar was having a succession certificate in her favour from a competent Court so the official respondents were well justified in releasing the terminal benefits in her favour. Attempt has also been made to say that the relationship of husband and wife in between the Applicant No.1 and Late Hari Ram, stood snapped long back in eighties and Late Hari Ram mentioned the name of Smt. Kesar Bai as his wife in all the relevant papers. It is also said that Applicant No.2 never applied for compassionate appointment and it was Applicant No.1, who applied for compassionate appointment of Applicant No.2. The Respondent No.3, did not put in appearance inspite of notice.

4. I have heard Shri R.K. Nigam and Shri Ravi Ranjan. I am of the view that in this case for compassionate appointment of Applicant No.2 under dying-in-harness rules on the death of Late Hari Ram can be considered without entering into the controversy as to whether Applicant No.1 is his widow or as to whether Smt. Kesar Bai is his second wife. The reason is that there is no dispute from the side of the Respondents that Applicant No.2 is son of Late Sri Hari Ram. The relationship of Applicant No.2 with Late Hari Ram was not to come to an end, on the alleged snapping of relationship between Applicant No.1 and Late Sri Hari Ram. It is never the contention of the Respondents that they have considered the claim of Applicant No.2 for compassionate appointment and have



rejected the same. Their contention is that he never applied and it was his mother who applied for his appointment under dying-in-harness rules. I think even if mother had applied for compassionate appointment of her son, authorities should have brought it in order, by asking the Applicant No.1 to ensure that application came from Applicant No.2 together with necessary papers. Any way, the request for compassionate appointment of Applicant No.2 came to the Respondents in the year 2000 itself as alleged in O.A. and is still pending. Whether the Applicant No.2 is entitled to that appointment is a matter to be considered by the authorities concerned in the light of the rules and guidelines and the Tribunal, could not like to express its view at least at this stage.

5. It has come during the course of arguments that Smt. Kesar Bai has also moved some application for compassionate appointment in place of Late Hari Ram. If the Respondent No.3 has also requested for her compassionate appointment, the Respondent No.2 will consider the case of Applicant No.2 together with the case of Respondent No.3 and decide as to whether either of them or none of them is entitled to such compassionate appointment.

6. The O.A. is finally disposed of with a direction to Respondent No.2, to consider the request of Applicant No.2, ^{for compassionate appointment} in accordance with rules and law, in the light of the observations made above, within a period of four months from the date a certified copy of this order is produced before him.

No order as to costs.

V.C.

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V.C.