

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

(THIS THE 20th DAY OF MAY, 2010)

PRESENT:

HON'BLE MR. S. N. SHUKLA, MEMBER-A

ORIGINAL APPLICATION NO. 440 OF 2005

(U/s, 19 Administrative Tribunal Act.1985)

By Advocate: Shri Rakesh Verma
Shri S.K. Singh

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, DRM's Office, Varanasi.
3. Senior Divisional Personnel Officer, North Eastern Railway, Varanasi.

..... Respondents

By Advocate: Shri D.P. Singh

ORDER

(DELIVERED BY:- MR. S. N. SHUKLA, MEMBER-A)

Heard parties counsel for both the parties.

2. This O.A. is against impugned order dated 20.6.2003 (Annexure-1 of the O.A.). Earlier the applicant had approached this Tribunal in O.A. No. 851/99 seeking direction for compassionate appointment. The Tribunal vide order dated 01.8.2001 directed the authorities to consider her claim and pass a reasoned order in this behalf as per rules. The authorities considered the claim of the applicant and passed order dated 20.6.2003 is annexed in this O.A. and salient points highlighted by the authorities in the impugned order are reproduced speak for itself :-

उत्तमान अली के मेडिकल विश्रेणीकृत होने के कारण उनके स्थान पर उनके किसी आश्रित के अनुकम्पा के आधार पर नौकरी दिये जाने के सम्बन्ध में श्री उत्तमान अली समय-समय पर विरोधी प्रार्थना पत्र देकर प्रशासन को युमराह करते रहे हैं। कभी वह कहते हैं कि उनकी शादी नहीं हुई तथा वह अविवाहित

है । कभी अपनी तथाकथित पत्नी को रोजगार देने की बात करते हैं तो कभी किसी को भी न दिये जाने की बात करते हैं, इनके ये सभी बयान विवादस्पद, भास्मक एवं अन्तर्विरोधी हैं ।

इसी तरह वादी श्रीमती बिल किस जहां द्वारा प्रस्तुत दो अजल-अलग तिथियों के निकाहनामें जिनसे वह प्रमाणित करना चाहती है कि वह ही श्री उस्मान अली की पत्नी है, मैं पत्नी का नाम अमीना खातून है, परन्तु दोना निकाहनामों में संदेहास्पद बनाता है इसके अतिरिक्त, यदि वादिनी अमीना खातून ही है तो उसने अपना नाम विलकिस जहां क्यों रखा ?

इन सभी बातों को खुलासा करने के लिये प्रशासन ने श्रीमती विलकिस जहां को इस कार्यालय के पत्र सं० का/239/226 अन, दिनांक 28/1/2002 द्वारा यह निर्देशित किया था कि वे श्री उस्मान अली के साथ किसी कार्य दिवस में अपने मूल प्रमाण पत्रों एवं अभिलेखों के साथ शीघ्र साक्षात्कार के लिये उपस्थित हों, लेकिन श्रीमती विलकिस जहां ने दिनांक 14/3/2002 को स्वहंस्ताक्षरित प्रतिवेदन इस कार्यालय में प्रस्तुत किया जिसमें मु० उस्मान अली का मृत्यु प्रमाण पत्र संलग्न था। उक्त मृत्यु प्रमाण-पत्र दिनांक 9/1/2002 में यह स्पष्ट उल्लेख है कि श्री उस्मान अली को शादी नहीं हुई थी और न ही उनका कोई आश्रीत ही है । केवल एक तलाकशुदा बहन मो० जमरुद बेगम है ।

रेल प्रशासन द्वारा भी स्व उस्मान अली के पैतृक निवास स्थान पर जाँच कराने पर यह तथ्य प्रकाश में आया कि स्व० उस्मान अली का विवाह नहीं हुआ था । उक्त तथ्य की पुष्टि स्व० उक्मानअली के पत्र दिनांक 12/8/1997 द्वारा भी होता तिसमें उन्होने प्रशासन को यह सूचित किया था कि उनकी शादी नहीं हुई थी एवं किसी को अनुकम्मा के आधार पर नियुक्ति न दी जाय ।

उपर्युक्त तथ्यों एवं उपलब्ध साक्ष्यों के आधार पर श्रीमती विलकिस जहां को अनुकम्मा के आधार पर नियुक्ति का दावा वर्तमान में स्वीकार योग्य नहीं है ।

3. Learned counsel for the applicant also invited the Tribunal's attention to the photo copies of two documents at annexure 1 and Annexure 2 of the supplementary affidavit ^{stated} to be the copies of *Nikahnama* of the applicant. Late Shri Usman Ali (passed away on 27.5.1999) as per copy of death certificate placed at Annexure 6/compilation II of the O.A. Interestingly the certificate apparently issued by some authorities in Andhra Pradesh, itself states that Shri Usman Ali was not married and he does not have any dependents and he survived by a divorced sister named Md. Jamrubaegam (page No. 7 Annexure 6) in the village.

4. Learned counsel for the applicant also sought to place reliance on copies of certain Railway Passes (Page 13, 14 and 15 of supplementary affidavit), have been issued in the name of 'Md. Usman Ali self and wife'. The name of the wife has not been indicated, support is also sought from a character certificate issued by a school in favour of Ms. Raunak Afroz daughter of Late Shri Usman Ali to buttress his claim that the applicant is the bona fide married to Late Usman Ali and is his survivor.

5. Learned counsel for the respondent on the other hand relied upon the letter dated 12.8.1997 ostensibly written by late Md. Usman Ali to Railway Minister, Government of India & Ors. (placed at Annexure 1 and 2 supplementary counter affidavit, dated ?-?2006. In the said letter some allegations have purported on him that the employees of the office is foisting Ms. Amina Khatun on him as his wife though he was never married to her. He also placed reliance on circular dated 20.1.1993 issued by the Railway Board wherein rules for appointment on compassionate grounds in the case of medical invalidation have been indicated. It states that in the event of medical decategorised a Railway employee is offered alternative employment on the same emoluments, he chooses to retire and requests for compassionate appointments.....

6. It is argued by the learned counsel for the respondents that no such request was made by Usman Ali during his life time.

7. Heard parties counsel and perused the pleadings on record. Admittedly this is a matter which is full contradictions of facts, as is averred by the parties. The main issue which emerges from the rival position is regarding marital status of applicant. On the basis of the facts brought on record this Court neither in a position nor is competent to give any finding regarding marriage status of the applicant. The right course for the applicant is that she would appear in case and shall obtain a declaration from an appropriate Court regarding her marital status and depending upon the out come of her declaration suit, she may file her claim before the authorities, if so advised.

8. With this observation O.A. stands disposed of finally. On facts and circumstances and on subsequent events^{so} so mandate this order will not come in the way of seeking relief before the appropriate forum, if so advised. No costs.



Member (A)

/Shashi/