

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO.726 OF 2005

ALLAHABAD THIS THE 02 DAY OF FEBRUARY, 2007

HON'BLE MR. P.K. CHATTERJI, MEMBER-A

Navin Kumar Saxena, S/o Late Sri Harish Chandra Saxena (WS-I), Retired, R/o 322 Beharipur Kasgaran, District Bareilly.

.....Applicant

(By Advocate Shri S.C. Dubey)

V E R S U S

1. Union of India, through the Secretary, Ministry of Railway, New Delhi.
2. The General Manager, North East Railway Boarakhpur.
3. The D.R.M., N.E.R., Izzatnagar, Bareilly.
4. Senior Stores Manager, N.E.R., Izzatnagar, Bareilly.

.....Respondents

(By Advocate: S.K. Chaturvedi)

O R D E R

The applicant in this O.A. is aggrieved that his request for a job on compassionate grounds was turned down by the respondents.

2. The applicant is son of the deceased employee-Harish Chandra Saxena, who was railway employee under the respondent no.4. Sri Harish Chandra Saxena

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was made to retire on 19.6.2000 on invalidation as he was not fit to work in any one of the categories of the Railway service.

3. The applicant is son of the deceased employee by his second marriage. After his father retirement on invalidation, an application was filed by the father of the applicant namely Harish Chandra Saxena on 8.2.2000 followed by reminder dated 28.2.2001 to the respondent no.4 for appointment of his son, present applicant, on compassionate grounds. A further representation was submitted on 25.6.2001 to the D.R.M., Izzatnagar, Bareilly. The respondent no.4 collected the testimonials from the applicant for consideration of the case. It is also stated by the applicant that 'No Objection Certificate' from the sons of the first wife was also furnished alongwith the application.

4. The applicant has filed copy of the relevant orders of the Railway Board, which stipulates that dependents of employee who are retired from a job on the ground of invalidation can be considered for a job on compassionate grounds. This rules has been attached to the O.A. as Annexure. The applicant, therefore, is aggrieved that in spite of this specific provisions, his request for a job on compassionate grounds was turned down by the impugned order (Annexure-1), which says that after consideration of the request for a job on

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compassionate ground, the competent authority was not in a position to approve the same in view of the directions of the Railway Board's letter no. RC-1/136 dated 2.1.1992 that the request for compassionate appointment to the children by second marriage of ex-employee would not be entertained.

5. The learned counsel, while arguing his case, has referred to the judgment of the Apex Court reported in 2000 (2) SCC 431 in the case of **Rameshwari Devi Vs. State of Bihar**. The learned counsel for the applicant while citing the relevant provisions of the judgment has stated that in this particular case the Hon'ble Supreme Court has recognized the right of the children by the second marriage to inherit the property as well as other benefits like retiral dues. The learned counsel has argued that by providing that son by the second wife would be entitled to "other benefits" besides assets of the father, the Apex Court implied that such a son should be considered eligible for compassionate appointment as well. If the essence of the judgment is understood correctly, it will mean that son by the second marriage should not be debarred from consideration for appointment on compassionate grounds.

6. The learned counsel for the respondents referred to the decision of the Railway Board vide letter 2.1.1992 (Annexure-7 to the CA) which clearly

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states that as far as compassionate job is concerned, the children of the second wife would not be eligible. The learned counsel for the applicant, however, says that this is the contradiction with the settled position as pronounced by the Apex Court in the case of Rameshwari Devi (supra).

7. I have heard the arguments of both sides and I have also gone through the pleadings and the relevant circulars on the subject.

8. The relief(s) which has been sought by the applicant are as follows:-

(i) to issue a suitable order or direction commanding the respondents to quash the impugned order dated 4/5.10.2004.

(ii) to issue suitable orders or direction commanding the respondents to provide appointment to the applicant on compassionate grounds.

(iii) to issue any other order or direction which this Hon'ble Court may deem it fit and proper in the circumstances of the case."

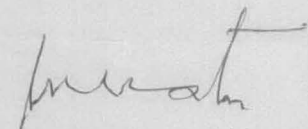
9. The learned counsel for the respondents has pointed out in the course of arguments that the better course of action for the applicant would have been to challenge the relevant orders of the Railway Board of the year 1992, referred to above. In so far as providing a job to the children of second wife of ex-employee on compassionate quota is concerned. The rules governing such consideration are those

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circulated by the same order. He has also stated that the order of the Apex Court in the case of Rameshwari Devi (supra) focused on one particular issue i.e. whether son of the second wife would have a right to inherit the property of the father including retiral dues. He does not agree that other benefits would automatically mean that such son should be eligible for consideration for compassionate appointment and particularly when there is a specific provision of the Railways to the contrary. More-over, this rule has so far not been challenged and has not been quashed by the Hon'ble Supreme Court in any case.

10. In view of the above, I am inclined to agree with the submissions of the learned counsel for the respondents in the matter. It appears that in the light of the extant ruling and the provisions, the impugned order is in order and there is no infirmity or deficiency as far as legal aspects are concerned.

11. For these reasons, the O.A. fails and is dismissed accordingly. No costs.



MEMBER-A

GIRISH/-