

Reserved on 14.09.2021
Pronounced on 15.09.2021

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Original Application No. 330/01513/2015

Hon'ble Ms. Pratima K Gupta, Member (J)

Smt. Asha Devi, Wife of Late Bechoo Ram, R/o Quarter No.994-D, U.P. Yard-Railway Colony Mughalsarai, District-Chandauli.

. . .Applicant

By Adv : Shri Vinod Kumar

V E R S U S

1. Union of India, through General Manager, East Central Railway, Hazipur (Bihar).
2. The Divisional Railway Manager (P), East Central Railway, Mughalsarai.
3. Senior Divisional Finance Manager, East Central Railway, Mughalsarai.
4. Smt. Madhuri Devi, Wife of Chandra Shekhar, R/O House No.C 32/51-3-K Chenuwa, Chhitupur, District-Varanasi.

. . .Respondents

By Adv: Shri Sanjeev Kumar Pandey

O R D E R

By Hon'ble Ms. Pratima K Gupta, Member (Judicial)

The applicant has approached this Tribunal through this original application seeking direction to the respondents for release of death cum retrial dues on account of the death of her son Late Shri Deepak Kumar and has sought compassionate appointment for her younger son Manish Kumar.

2. The brief facts of the case as per the applicant are that the deceased employee Late Deepak Kumar was working as Porter with the office of the respondents.

2.1 The deceased employee was married to one Madhuri Devi (respondent no.4) there was no child from their wedlock. There was a matrimonial dispute between the deceased and his wife. Accordingly, the wife had severed her relationship and moved with her parents. The applicant committed suicide on 08.11.2011.

2.2 The respondents had directed the applicant to produce the certificate of second marriage of Madhuri Devi (respondent no.4). Accordingly the applicant had filed a letter dated 03.02.2013 written by the Parshad of the village to this effect. It is also stated that Smt. Madhuri Devi has a male child from her second marriage.

2.3 The applicant has been pursuing her grievance with the respondents through Right to Information Act which was replied on 26.05.2015 by the respondents. The respondent authorities have conducted a verification exercise through the welfare Inspector to verify the fact of remarriage of Smt. Madhuri Devi. The same is on record. According to the applicant the respondents have not taken any decision with respect to the claim of the applicant. In these circumstances the old mother of

the deceased Smt. Asha Devi is forced to approach this Tribunal seeking following reliefs:-

- "i) *To issue an order or direction in the suitable nature directing the respondent department to consider her claim for release of death-cum-settlement of his deceased son with in stipulated period as to be specified by this Hon'ble Tribunal.*
- ii) *To issue an order or direction in the suitable nature directing the respondent department to consider the further claim of the applicant for providing an appointment on compassionate ground to her younger son namely Manish Kumar under the dying in harness rule.*
- iii) *to issue any other suitable writ, order or direction which this Hon'ble Tribunal may seem fit and proper in the circumstances of the case.*
- iv) *Award the cost of this original application to the applicant."*

3. The respondents have filed the counter reply wherein it is stated that the said death-cum-settlement could not be released on account of non-submission of documents by the wife of the deceased Smt. Madhuri Devi. In the reply, it is further stated that the respondents have written several letters to Smt. Madhuri Devi for her response. In the reply, it is stated that divorce petition no.334/2003 between the deceased and respondent no.4 under section 13 of Hindu Marriage Act is pending before the Family Court, Varanasi and maintenance case no.391/2008 under section 125 Cr.P.C. for maintenance is also pending before competent court. With respect to the welfare inspector report, it is stated that the applicant re-married and never appeared before the enquiry officers for her statement.

4. Heard Shri Vinod Kumar, learned counsel for the applicant and Shri Sanjeev Kumar Pandey, learned counsel for the respondents and perused the records.

5. The learned counsel for the applicant has argued that the applicant has an old lady and has been suffering from almost 10 years for her legitimate dues. She has already lost her son and now she is suffering on account of the respondents not adhering to her legitimate dues.

6. The learned counsel for the respondents submitted that the applicant cannot seek multiple reliefs. As the applicant has not only sought for release of DCRG but also appointment on compassionate grounds for her younger son who is stated to be disabled, according to respondents these two reliefs cannot be sought in the same original application.

7. Be that as it may be, from the above facts and arguments, it is clear that the respondents cannot stop the release of DCRG. However, they are incapable to do so in absence of clarity of rightful legal heir of the deceased. This court is not competent to decide the said issue. Accordingly, the applicant is advised to obtain a legal survivor ship/succession certificate from the competent Civil Court and submit before the respondents. It is hereby directed that the respondents shall release the DCRG amount within two months from the date of receipt of the survivorship/succession certificate. With respect to the second prayer seeking appointment on compassionate grounds, the same cannot be allowed in the present original application as the objections raised by the respondent's counsel seems to be valid.

Accordingly, the said prayer is dismissed. The applicant is at liberty to avail his remedies as per law.

8. MA No.2420/2019 also stands disposed of.

9. Original application is disposed of. There shall be no order as to costs.

(Pratima K Gupta)
Member (Judicial)

/neelam/