

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 2nd day of September 2021

Original Application No. 330/00633 of 2021

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)

Dipika Minj, aged about 23 years, D/o Rajendra, R/o 312-B road No. 8, New Model Railway Colony, Izzat Nagar, Bareilly, District-Bareilly.

. . .Applicant

By Adv : Shri Ram Sanehi Yadav

V E R S U S

1. Union of India, through General Manager North Eastern Railway Gorakhpur.
2. Mandal Karmik Adhikari Izzat Nagar, Bareilly.
3. Mukhya Karkhana Prabandhak, Izzat Nagar, Bareilly, District-Bareilly.

. . . Respondents

By Adv: Shri Pramod Kumar Rai

ORDER

Heard Shri Ram Sanehi Yadav, learned counsel for the applicant and Shri Pramod Kumar Rai, who has appeared on advance notice, on behalf of the respondents on admission and perused the record.

2. Learned counsel for the applicant has submitted that the applicant is the married daughter of late Rajendra who died in harness. The applicant applied for compassionate appointment in place of her father but her application was rejected by the respondent No. 3 on the ground that she being a married daughter, is not entitled for appointment on compassionate ground.

3. Learned counsel for the applicant while placing reliance on the landmark judgment of Manjul Srivastava vs. State of UP and 2 others, 2020 Law Suit (All) 1007, has further submitted that Hon'ble Allahabad High Court has categorically held in the aforementioned case that the exclusion of married daughters from ambit of expression "family" in Rule 2(c) of the Dying in Harness Rules, is illegal and unconstitutional, being violative of Article 14 and 15 of the Constitution. Accordingly, the Hon'ble Allahabad High Court struck down the word 'unmarried' in rule 2(c)(iii) of Dying in Harness Rules.

4. The grievance of the applicant is that despite the clear verdict of Hon'ble Allahabad High Court, the prayer of the applicant has been rejected by the respondents illegally, ignoring the law.

5. Learned counsel for the applicant has prayed that the applicant has preferred a representation dated 03.07.2021 (Annexure No. 7 to the OA) before the respondents along with a copy of the aforesaid judgment of Hon'ble Allahabad High Court, which is still pending and the applicant will be satisfied at this stage if the respondent concerned (respondent No. 3) is directed to decide the said representation by passing a reasoned and speaking order, keeping in view the law laid down by Hon'ble Allahabad High Court in the above cited case of Manjul Srivastava, in a time bound manner.

6. Learned counsel for the respondents has opposed the prayer made by the learned counsel for the applicant on the ground that the order has already been passed by the competent authority/respondent No.3. Therefore, unless the aforesaid impugned order is quashed, no order can be passed on the representation preferred by the applicant.

7. Having considered the rival contention of learned counsel of both the parties this Tribunal is of the view that in wake of the law as laid down by Hon'ble Allahabad High Court, the impugned order dated 03.06.2021 (Annexure No.5 to the OA) cannot be sustained and is accordingly quashed. The respondent No.3/ the competent authority amongst the respondents is directed to decide the pending representation dated 03.07.2021 (Annexure No. 7 to the OA) of the applicant in accordance with law as laid down by the Hon'ble Allahabad High Court in the case of Manjul Srivastava, within a period of two months from the date of receipt of certified copy of this order and to consider her claim for compassionate appointment, if she otherwise fulfills all the eligibility criteria. The order so passed shall be communicated to the applicant without any delay.

8. With the above direction the OA is disposed of.

9. It is made clear that this Tribunal has not expressed any opinion on the merits of this case.

10. There is no order as to costs.

(Justice Vijay Lakshmi)
Member (J)

/pc/