

Reserved on 24.09.2021
Pronounced on 08.10.2021

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Original Application No. 330/0797/2019

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

Smt. Vibha Devi Aged about 47 years,
 D/o Late Sudha Devi, H.No.148, Ranimandi,
 District-Allahabad.

. . .Applicant

By Adv : Shri A.D. Singh

V E R S U S

1. Union of India, through its General Manager, North Central railway, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central railway, Allahabad.
3. Divisional Personal Officer, North Central Railway, Allahabad.

. . .Respondents

By Adv: Shri Satya Prakash

O R D E R

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

The applicant has approached this Tribunal assailing the impugned order dated 04.01.2019 whereby the claim of the applicant for compassionate appointment has been denied for the reason that she was married and not dependent on the deceased employee (Smt. Sudha Devi) of the respondents.

2. The applicant has sought or the following reliefs:-

"i) *Quash the impugned order dated 04.01.2019 passed by respondent no.2 (Annexure A-1) to this O.A. in compilation No.-I.*

- ii) Direct the respondents to reconsider and provide the compassionate appointment to the applicant at any post and place with all consequential benefits.*
- iii) To grant any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*
- iv) Award the cost of the application in favour of the applicant."*

2. The brief facts according to the applicant are that the mother of the applicant Smt. Sudha Devi was working as waiter with the respondents and denied on 02.02.2018. The mother of the applicant Smt. Sudha Devi was died on 17.02.2018 leaving behind two married daughters namely Smt. Poonam and Smt. Vibha Devi (present applicant). The applicant is qualified upto High School and she is, therefore, eligible for compassionate appointment for any suitable post and place after the death of sole earner of the family. The applicant applied for seeking compassionate appointment on March 2018, 12.06.2018 and 05.07.2018. The applicant also submitted a joint affidavit on 29.05.2018 of her and her sister whereby no objection was provided by the sister in favour of the applicant. The applicant once again submitted an affidavit on 13.06.2016 and 29.05.2018 in support of her claim for compassionate appointment.

3. Counter affidavit has been filed by the respondents. In the counter affidavit, it is stated that the applicant could not be granted compassionate appointment as the deceased employee Late Sudha Devi did not leave any liability after her demise as both her daughters namely Poonam and Vibha Devi were happily married.

4. Heard Shri A.D. Singh, learned counsel for the applicant and Shri Satya Prakash, learned counsel for the respondents and perused the records.

5. The Hon'ble Apex Court in the case of ***The Director of Treasuries in Karnataka & Another Vs. V. Somyashree on 13.09.2021 in Civil Appeal No.5122/2021*** held in para 7 which reads as under:-

7. While considering the submissions made on behalf of the rival parties a recent decision of this Court in the case of N.C. Santhosh (Supra) on the appointment on compassionate ground is required to be referred to. After considering catena of decisions of this Court on appointment on compassionate grounds it is observed and held that appointment to any public post in the service of the State has to be made on the basis of principles in accordance with Articles 14 and 16 of the Constitution of India and the compassionate appointment is an exception to the general rule. It is further observed that the dependent of the deceased Government employee are made eligible by virtue of the policy on compassionate appointment and they must fulfill the norms laid down by the State's policy. It is further observed and held that the norms prevailing on the date of the consideration of the application should be the basis for consideration of claim of compassionate appointment. A dependent of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. It is further observed he/she is, however, entitled to seek consideration in accordance with the norms as applicable on the day of death of the Government employee. The law laid down by this Court in the aforesaid decision on grant of appointment on compassionate ground can be summarized as under:

- (i) that the compassionate appointment is an exception to the general rule;*
- (ii) that no aspirant has a right to compassionate appointment;*
- (iii) the appointment to any public post in the service of the State has to be made on the basis of the*

principle in accordance with Articles 14 and 16 of the Constitution of India;

(iv) appointment on compassionate ground can be made only on fulfilling the norms laid down by the State's policy and/or satisfaction of the eligibility criteria as per the policy;

(v) the norms prevailing on the date of the consideration of the application should be the basis for consideration of claim for compassionate appointment."

6. The Hon'ble Allahabad High Court in the judgment dated 04.12.2015 in the case of **Smt. Vimla Srivastava and Others Versus State of U.P. and Another in Writ-C No.60881 of 2015** para 26 "held that denial/exclusion of unmarried daughter from the ambit of the expression of family dying-in-harness Rules is illegal and unconstitutional being violative of Article 14 and 15 of the Constitution of India." As such in accordance with the said pronouncement the applicant cannot be deprived being married daughter from granting the compassionate appointment, as such the applicant is entitled for compassionate appointment after the death of her mother being dependent of the deceased employee.

7. In view of the above after considering the available pleadings and the relied upon judgment, the applicant may file a self contained representation to the respondents to support her case that she was dependent to the deceased employee at the relevant time. The respondents are directed to consider and decide the representation of the applicant, if so filed, in the light of the supporting documents alongwith the representation in accordance with law by passing a reasoned and speaking order

within a period of two months from the date of receipt of a certified copy of this order.

8. With the above directions, the original application stands disposed of with no order as to costs.

(Pratima K Gupta)
Member (Judicial)

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