

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW  
(HEARING THROUGH VIDEO CONFERENCING)**

**Sl. No. 2**

O.A. No. 332/00168/2019

**Order reserved on : 25.11.2020.**

**Order pronounced on : 01.12.2020**

**HON'BLE MR. A. MUKHOPADHAYA, MEMBER (A)**

Km. Manisha Dwivedi, Daughter of late Geeta Dwivedi,  
age 24 years Resident of 538/109, Yogi Nagar, Trivedni Nagar-II,  
Sitapur Road, Lucknow.

**..... Applicant**

**By Advocate : Ms. Shobha Awasthi**

**VERSUS**

1. The Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager, North Easter Railway, Ashok Marg, Hazratganj, Lucknow.

**.....Respondents**

**By Advocate: Shri Yogesh Tiwari**

**ORDER**

**BY HON'BLE MR.A. MUKHOPADHAYA, MEMBER (A)**

The brief facts giving arise to this Original Application, (O.A.),  
are that the applicant's mother, Smt. Geeta Devi, who was serving

with the respondent Railways died in harness in 12.10.1996. Thereafter, the father of the applicant applied to the respondents for giving compassionate appointment to the applicant's elder sister on 24.10.1996 and, on the death of her elder sister on 31.01.1998, again on 15.02.98, for giving compassionate appointment to the applicant who was then around five years of age. The respondents, vide communication of 23.04.1998, stated that the case could be considered only when the applicant attained majority, (i.e. 18 years of age). The applicant states that on reaching majority, she applied again for compassionate appointment, first on 10.07.2012 and yet again later on 03.07.2017 since the first application was not even responded to. The application dated 03.07.2017 was considered by the respondents, (General Manager, NER), but the same was declined as communicated to the applicant vide respondents' letter dated 12/17.07.2018 (Annexure A-1A, impugned order); hence this O.A.

2. Heard both learned counsels for the applicant as well as respondents.

3. Ms. Shobha Awasthi, learned counsel for the applicant, submitted that the applicant's father contracted a second marriage in 1997 after the death of the applicant's mother and thereafter the applicant remained neglected. Despite being in indigent circumstances, the applicant manage to survive and completed her education in engineering from Maharashtra Institute of Technology, (MIT), Savitribai Phule Pune University; (Annexure A-7 refers). She also stated that the applicant has successfully undergone a period of industrial summer training with the respondents between 13.06.2016 to 15.07.2016 as is evident from the certificate issued by the respondents at Annexure A-6 and that having obtained a degree

in engineering from MIT, Savitribai Phule Pune University, (Passing Certificate at Annexure A-7), the applicant is both eligible and suitable for such compassionate appointment. Learned applicant's counsel also pointed out that as stated in the rejoinder affidavit to the Counter affidavit of the respondents, her case for compassionate appointment can be considered by the respondents even up to 25 years after the death of the government servant; (Annexure R-1-RBE No. 77/2011 letter No. E(ANG)11/98/RC-1/64 dated 31.05.2011). Counsel for the applicant, pleaded that the case of the applicant for compassionate appointment needs to be considered again by the respondents in the light of the aforementioned eligibility and suitability.

4. Per contra, Shri Yogesh Tiwari, learned counsel for the respondents, argued that the respondents Railways have not received any application for compassionate appointment from the applicant in 2012; (Annexure A-5 of the O.A). He stated that in any case it is clear from the undisputed chronology of the case that the applicant is seeking compassionate appointment after a period of around 20 years or more after the death of her mother, Smt. Geeta Devi. Respondents' counsel further pointed out that it is apparent from the records that the applicant has not only survived for all these years without the aid of any such appointment but has evidently managed to successfully fund her higher technical education, from other resources available to her. He contended that the applicant had not come to the Court with clean hands as the higher Courts and the Apex Court in a catena of cases, had ruled that compassionate appointment is not a matter of right nor is it a regular source of recruitment and that this is essentially a welfare measure aimed at helping the family of a deceased government servant who died in

harness through the difficult period which immediately follows such sudden or unexpected demise. He further argued that in the present case, not only is the applicant a survivor of over 20 years after her mother's death, but, by her own account, it is evident that she has even managed to pay for her higher education. As regards the degree purportedly obtained by the applicant, (Annexure A-7), learned counsel for the respondents pointed out that there was glaring discrepancy in the record as provided by the applicant herself in that the degree awarded by the MIT, Savitribai Phule Pune University, (Annexure A-7), shows the applicant's mother's name, not as Geeta Devi but as Mamta. He argued that this again casts doubts on whether the applicant has approached this Court with clean hands and legitimate documents.

5. Learned counsel for the respondents pleaded that for the reasons elaborated in his arguments as above, the O.A may be dismissed as being entirely without merit.

6. I have carefully considered the rival submissions of both learned counsels for the applicant as well as respondents.

7. The chronology of the case is not disputed and therefore, it is very clear that a period of over 20 years has passed since the death of Smt. Geeta Devi who was working with the respondent Railways and that the applicant, who is the daughter of Smt. Geeta Devi has not only managed to make both ends meet during this long period but has also managed to acquire an education including higher education in engineering; (by her own assertion). It is noteworthy though that the degree in engineering purportedly obtained by the applicant mentions her mother's name as Mamta and not as Smt.

Geeta Devi and that the applicant's counsel has no ready explanation for this clear discrepancy on the face of the record.

8. Given the fact that the Higher Courts and the Apex Court, in a catena of cases, have ruled that compassionate appointment is not a matter of right and is also not a regular source of recruitment and given further the evident and undisputed circumstances of this case in which the applicant, who is the daughter of the deceased government servant, has managed to get by without the aid of such compassionate appointment for over 20 years of her life, the action of the respondents in rejecting her application for compassionate appointment at this belated stage does not appear to be unjust, arbitrary or illegal in any manner.

9. In view of the findings as above, O.A No. 168/2019 is dismissed for want of merit.

10. There shall be no orders as to costs.

(A. Mukhopadhaya)  
Member (A)

JNS