

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1365 of 1994

Allahabad this the 23rd day of July, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)
Hon'ble Maj.Gen.KK. Srivastava, Member (A)

Smt. Sushila Devi, Widow of Late Tara Chandra, R/o
89 Garhi Kalan, Leader Road, Allahabad.

Applicant

By Advocate Shri Satish Dwivedi

Versus

1. Union of India through the General Manager,
Northern Railways, Baroda House, New Delhi.
2. The General Manager, Northern Railway, Baroda
House, New Delhi.
3. The Divisional Railway Manager, Northern Railways,
Allahabad.

Respondents

By Advocate Shri G.P. Agarwal

O_R_D_E_R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Late Shri Tara Chandra was appointed as
Safaiwala under the Principal, Institute of Track
Machine, Northern Railway, Subedarganj, Allahabad
w.e.f. June, 1985. As per applicant's case, he was
appointed in handicapped quota. It was in June, 1989
that he was invalidated out of railway service on

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medical ground and ultimately he died on 15.02.90. Smt.S. Devi-the applicant of this O.A. and widow of Shri Tara Chandra applied for appointment on compassionate ground. ^{later} No positive response from the side of the respondents, she preferred the O.A.No.553 of 1990, which was disposed of with the direction to decide her representation. This representation has been decided and rejected by the competent authority and, therefore, she has filed the present O.A. seeking relief to the effect that the respondents be directed to appoint herein group 'D' post on compassionate ground.

2. The respondents have contested the case, filed counter-reply mainly on the ground that the representation of the applicant has already been rejected by the General Manager, but that order has not been impugned and so long this order remains ^{in force} ~~intagget~~, the relief claimed cannot be provided. The other ground is that the husband of the applicant was only a casual labour and as per railway rules, on death of casual labour there is no provision for appointment on compassionate ground. It has also been pleaded that as per rules, the applicant is not entitled to any family pension.

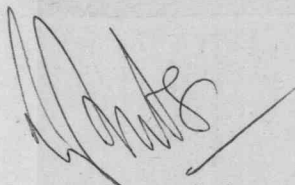
3. Heard counsel for the parties and perused the record.

4. The prayer for compassionate appointment has been rejected mainly on the ground that widow

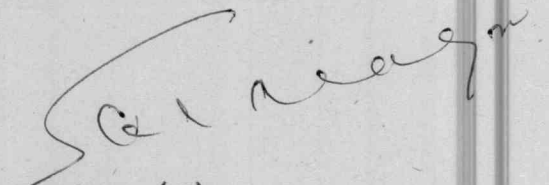
of casual labour is not entitled for appointment on compassionate ground. Copy of this order by General Manager, Railway has not been filed from either side, but it has been incorporated in para-7 of the counter-affidavit. From perusal of record we find that Smt.Sushila Devi-the applicant of this O.A. and widow of Late Shri Tara Chandra has been paid the gratuity, amount of G.P.F. and the Group Insurance amount. Where a claim for gratuity is considered and the employee was registered under Group Insurance Scheme, that cannot be termed as simple casual labour. He must be having some better service status, which entitled him to subscribe in the G.P.F. and to be Member under Group Insurance Scheme and, therefore, the ground for rejection of claim for appointment on compassionate ground does not appear to be in accordance with facts of the case. There is an objection from the side of the respondents that this order by General Manager has not been impugned and so long it remains there, the prayer of the applicant cannot be considered. We find that the service jurisprudence is mainly based on principles of natural justice and, therefore, strict provisions of pleadings as per C.P.P. are not applicable.

5. With the above position in view, we remand back the matter to the competent authority in the respondents establishment with the direction that the case of the applicant-Smt.Sushila Devi for appointment on compassionate ground be re-examined

and entitlement of family pension be re-examined and decided within three months from the date of communication of this order keeping in view the observations made above as well as the rules in this regard. The O.A. stands disposed of accordingly. No order as to costs.



Member (A)



Member (J)

|M.M.|