

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4th day of September 1997.

Hon'ble Mr. S. Dayal, Administrative Member.

Original Application no. 413 of 1995.

Om Prakash Singh, S/o Late Shri S.N. Singh, r/o Village-Siktha, Post Office - Dhina, District Varanasi.

... Applicant.

C/A Shri H.C. Pathak

Versus

1. The Union of India, Through the General Manager, Northern Eastern Railway, Gorakhpur.
2. The Financial Advisor & Chief Accounts Officer, North Eastern Railway, Gorakhpur.
3. Divisional Railway Manager, North Eastern Railway, Varanasi
4. The Divl. Accounts Officer, North Eastern Railway, Varanasi.

.... Respondents.

C/R Shri D.C. Saxena
Shri S.K. Om.

Connected with

Original Application no. 376 of 1996.

1. Smt. Kanti Devi, Widow of Late Shri S. N. Singh,
2. Ajai Kumar Singh, S/o Late Shri S.N. Singh,
Both resident of Madhwapur, Varanasi.

..... Applicants

C/A Shri S.K. Om

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Versus

1. Union of India, through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Varanasi.
3. Divisional Accounts Officer, North Eastern Railway, Varanasi.
4. Sri Om Prakash Singh, S/o Late Shri S.N. Singh, r/o Village Sihtha, P.O. Dhaina, Distt. Varanasi.

.... Respondents

C/R Shri D.C. Saxena
Shri H.C. Pathak

O R D E R (Oral)

Hon'ble Mr. S. Dayal, Member-A.

These are 2 applications under section 19 of the Administrative Tribunals Act, 1985.

2. The applicants in these applications are the third and the only living wife of the deceased employee who seeks compassionate appointment either for herself or for her son and the **eldest** son born of the first marriage of the deceased employee whose mother died before the second marriage of the deceased employee.
3. The facts of the cases are that one Shri Sachchida Nand Singh was working as Head Clerk in the Northern Eastern Railway, Varanasi and died on 20.02.94 while in service. Late Shri Sachchida Nand Singh had married in 1954 by one late Smti Phoolmati Devi who expired in the year 1956 after giving birth of one of the applicants Shri Om Prakash Singh. Late Shri Sachchida Nand Singh,

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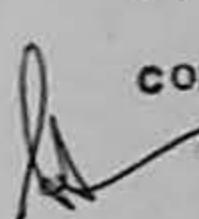
married Smt. Vimla Devi in 1958 who also died in the year 1971 living behind one son and a daughter who are both settled and said to have been living separately. Late Shri Sachchidanand Singh said to have married one of the applicants Smt. Kanta Devi in the year 1972 and had two sons from this marriage, One of whom is the applicant in one of the applications for compassionate appointment. Shri Om Prakash Singh the eldest son of the deceased employee claimed compassionate appointment on the ground that most of the terminal benefits of deceased father have been granted to third wife Smt. Kanta Devi who is in receipt of monthly pension also. Smt. Kanta Devi and her son Shri Ajai Kumar Singh were the applicant in the second application have averred that they are facing economic hardships while Shri O.P. Singh was living separately since ^{long} and was employed in a private factory. Learned counsel for the applicant in O.A. no. 376 of 1996 has also drawn attention to the written statement filed by Shri O.P. Singh in the OA admitting that he was living in a village ^{agricultural} and looking after and supervising the work of the family. Learned counsel for the applicant has contended that the eldest son Shri O.P. Singh was having considerable landed ^{not} properties and can be considered to be indigent.

4. Shri D.C. Saxena learned counsel for the respondents has expressed the difficulties of the respondents in deciding as to who should ^{be} considered the ^{rightful} claimant for compassionate appointment in this case. He has mentioned about existence of litigation about landed properties between the applicants in these 2 cases. He has stated that the respondents are awaiting the decision of the court in that case regarding ^{the} ^{sub} ^{heir} of

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the deceased employee in order to settle the question of entitlement for the compassionate appointment.

5. After considering the arguments of learned counsels Shri H.C. Pathak and Shri S. Kumar in OA's 413/95 and 376/96 respectively and of Shri D.C. Saxena and Shri S. Kumar learned counsel for the official respondents and for respondent no. 4 in OA 413/95 as well as pleadings on record, it is clear that the claims of Shri O.P. Singh and Smt. K. Devi alongwith Shri A.K. Singh are in conflict. Learned counsel for the respondent no. 4 in OA 376/96 has drawn attention to annexure CA-1 to his written statement filed on behalf of the respondent no. 4 in which Chief Accounts Officer has stated in his letter dated 29.11.95 that the respondent no. 4 is the only applicant entitled for compassionate appointment in view of the circular no. E(NG)/11/91/RC-1/ 136 dated 2.1.92 as authority for saying that the 2nd or subsequent widow and her children are not entitled for compassionate appointment. This averment of learned counsel Shri H.C. Pathak has been countered by learned counsel Shri S. Kumar by citing case between Shri Aurn Kumar Pal vs Union of India and others (1996) 32 ATC 427 in which the circular letter in annexure dated 2.1.92 has been considered and it was decided that the widow had, in similar circumstances, preferential right of compassionate appointment in preference to the sons form the deceased wife. The circular letter in question dated 2.1.92 is annexed as annexure A-3 to the OA 413/95 and it is quiet clear from the reading of the circular that in any case the first wife survives as widow and other wives were also surviving and claiming compassionate appointment, in such cases 2nd widow and her

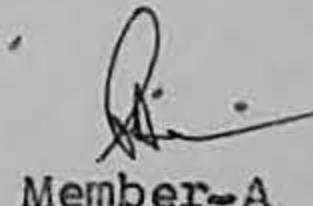


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~~children~~ are not to be considered for compassionate appointment.
Such ~~the case~~ is not here ~~as~~ ^{the case} as there is only one surviving widow.

6. Under the circumstances the Railway Administration are directed to consider the assets available with Shri O.P. Singh on the one hand and Smt. Kanta Devi and Shri A.K. Singh on the other and decide whether any of these two is ⁱⁿ indigent circumstances. If the Railway Administration reaches conclusion that Smt. K. Devi and her sons are in indigent circumstances, their claims for compassionate appointment shall be considered, in case that is no true and Shri O.P. Singh ^{is found} ~~has found~~ to be ⁱⁿ indigent circumstances, only the ~~case~~ ^{case} of Shri O.P. Singh will be entitled for consideration of compassionate appointment. The Railway Administration shall have three months for arriving at conclusion and passing a reasoned and detailed order on the respective claims of the applicant, in these 2 cases. The application is disposed of with the above direction.

7. There shall be no order as to costs.



Member-A

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