

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1621 OF 1999

ALLAHABAD, THIS THE 04th DAY OF AUGUST, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Laxmi Narayan aged about 25 years,
son of Shri Bhagwan Das,
resident of Nehru Nagar, Lalipur.

.....Applicant

(By Advocate : Shri R.K. Nigam)

VERSUS

1. Union of India through General Manager,
Central Railway, Mumbai, CST.
2. Divisional Railway Manager, Central Railway,
Jhansi.
3. Smt. Janki Bai c/o Shri Baboo Lal,
resident of Nehru Nagar, Lalitpur.

.....Respondents

(By Advocate : Shri A.K. Gaur & P. Chandra)

ORDER

By this O.A. applicant has sought the following
reliefs:-

- (a) to issue a writ, order or direction in the nature of Mandamus thereby commanding the respondents No.1 & 2 to issue appointment order in respect of the petitioner in Group 'D' category on Jhansi Division of Central Railway as per their own letter dated 04.12.1998 (Annexure A-II) and the option having been exercised by the humble petitioner in pursuance of the above letter;
- (b) to issue any other suitable order in favour of the humble petitioner as deem fit by this Hon'ble Tribunal in the facts and circumstances of the case;
- (c) to award cost of the petition in favour of the humble petitioner.



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2. It is submitted by the applicant ^{her} mother Smt. Mulliya Bai died on 20.12.1976. His father was working in the Railways but he also died on 17.11.1998. Applicant gave an application for compassionate appointment. He was called for screening and was communicated vide letter dated 04.12.98. He was informed that though he has been found to be eligible for class-IV appointment but due to non availability of vacancies in Jhansi his case for compassionate appointment is getting delayed. Therefore, he may give his option whether he is willing to work at Mumbai, Bhusawal and Solapur Division as vacancies in Class-IV are available there. In case he ~~has~~ ^{so} desired, he shall be called for screening and appropriate action shall be taken for giving him the compassionate appointment (Pg.14). It is submitted by the applicant that immediately thereafter he gave his option for being appointed in Bhusawal, Mumbai and Solapur Division. But thereafter applicant was not given any reply, therefore, he gave a representation to the D.R.M., Central Railway, Jhansi on 07.11.1999 (Pg.28) but since no reply was given to him. Therefore, he had no other option but to file the present O.A.

3. Respondents on the other hand have submitted that applicant had given his application on 26.08.1998 for appointment on compassionate grounds supporting the application dated 26.05.1998 from his mother Smt. Mulliya Bai (Annexure R-I). Moreover, applicant had himself given the particulars about his family members wherein he had mentioned the Name of Smt. Mulliya Bai aged 42 years and wife of Late Shri Bhagwan Das (Annexure R-II), which shows that applicant had himself recognised Smt. Mulliya Bai to be his mother who was 42 years of age, whereas the earlier Mulliya Bai had died



on 28.11.1998. They have submitted that Shri Bhagwan Das had 3 wives. Smt. Muliya Bai who expired on 24.11.1978, second wife Smt. Bhagwati, who left Shri Bhagwan Das and remarried with another person Shri Munna Lal and third wife was also Muliya Bai who married with Shri Bhagwan Das on 15.04.1979 ^{is} and still living ~~is~~ with Shri Bhagwan Das. All the children namely three sons and one daughter are of first wife of Smt. Muliya Bai. Smt. Bhagwati had given affidavit that she has no concern with Late Bhagwan Das and has no objection if all the settlement dues, pension and service is given to Smt. Muliya Bai.

4. First Son of Shri Bhagwan Das, Shri Laxman Prasad is working under the Permanent Way Inspector Lalitpur as Gangman in Railways, who had no objection if compassionate appointment was given to Shri Laxmi Naraiyan. It was on the basis of this 'No objection' given by Shri Laxmi Prasad ^{was} that Shri Laxmi Narain ~~shall~~ ^{was} be called for screening. He was called for Group ('D' Screening on 06.04.1999 but he ~~was~~ remained absent. Again he was called for screening on 20.04.1999 when Smt. Muliya Bai the third wife raised objection as she had herself claimed compassionate appointment. On the representation of Smt. Muliya Bai, Welfare Inspector was deputed for inquiry who informed that Shri Her Charan is the son of third wife which fact was concealed by Smt. Muliya Bai. In view of the fact that there were too many claimants, the case was closed by the competent authority. They have explained that earlier applicant was called upon to give his option for appointment in other divisions but in view of the changed circumstances as mentioned above, the entire matter was closed. They have, thus, submitted that there is no merit in the O.A. the same may be dismissed.

5. Counsel for the applicant submitted that lady who has signing as Muliya Bai is infact not Muliya Bai but is Janki Bai,

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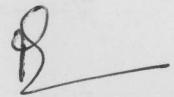
which is evident from the voters list but she has taken all the terminal benefits by forcing herself to be the Muliya Bai. He had impleaded Janki Bai as respondent No.3 no Janki Bai has entered appearance in this case, though one Smt. Muliya Bai has filed her affidavit. The said Muliya Bai was not impleaded by the applicant nor she has moved any application for being impleaded in this O.A. Therefore, the counter affidavit filed by said Smt. Muliya Bai cannot be taken into consideration as she has no locus in this case.

6. Now the question arises whether in these facts, can any direction be given to the respondents as claimed by the applicant the answer is definitely 'NO'. After all when there are more than one claimants before the authorities, who are claiming compassionate appointment and it is submitted by one of the other parties that has taken the terminal benefits by way of ^{best M} fraud naturally the course for the respondents was to close ^{by asking them to bring the succession certificate. Pl} the entire matter ^X whether the deceased 3 wives were Janki Bai or Muliya Bai cannot be decided by me in the Tribunal as this is a matter which can either be enquired into by the department concerned or in a civil court of law. Therefore, in the present circumstances, we leave it open to the department to either permit the applicant to place before them the evidence to show that the Muliya Bai, ^{Who is} which has been given the terminal benefits is not in fact Muliya Bai and was only Janki Bai so that they may get the inquiry ^{done B} and after verification if the claim of ^{necessary or else shall be passed otherwise Pl} applicant is established, respondents shall pass the appropriate orders in accordance with law of course in a speaking manner under intimation to the applicant within a period of 6 months from the date of receipt of a copy of this order. Department would also give liberty to the said Muliya Bai to lead her evidence so that ultimately she may not say that the inquiry was conducted at her back.



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7. In view of the above discussions, this O.A. is
disposed off with no order as to costs.



Member (J)

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