

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.142 OF 1999  
ALLAHABAD THIS THE 07TH DAY OF MARCH,2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER-JJ

1. Smt. Malti Devi,  
W/o Late Shri Ram Bali.
2. Ravindra Kumar Kushwaha,  
S/o Late Shri Ram Bali.  
Both R/o Village-Gaura,  
P.O.-Bharwari,  
District-Kaushambi (Allahabad). ....Applicants

(By Advocate Shri A. Kumar, Shri C.P. Gupta)

Versus

1. Union of India,  
through General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Divisional Railway Manager,  
Northern Railway,  
Nawab Yusuf Road,  
Allahabad.
3. Shri Ram Balak Maurya,  
S/o Late Shri Ram Avatar,  
Working as Assistant Elect.  
Driver under Sr. Divisional  
Electrical Engineer/RSO/Northern Railway,  
D.R.M.'s Office,  
Allahabad. ....Respondents

(By Advocate Shri A.K. Gaur)

ORDER

By this O.A. applicant has sought a direction and  
a writ of certiorari for quashing the order dated 13.07.1998



and to give a direction to the respondents to terminate the services of respondent no.3 and to appoint the applicant in his place.

2. It is submitted by the applicant that her husband was working as Leverman at Achhelda Railway Station but he was killed while he was returning from duty in the night on 18.06.1982. Late Ram Bali left behind him his widow, two minor sons, one minor daughter and applicant no.2 who is the eldest son of Late Ram Bali. It is submitted by the applicant that since she was illiterate her brother-in-law named Shri Ram Balak Maurya obtained her thumb impression on several papers and took appointment on compassionate ground in place of her husband. When she came to know about it, she has given number of representations to the authorities but when no action was taken, she has filed Original Application No.740 of 1991 which was decided on 28.09.1992 by giving a direction to the respondents that in case the said Shri Ram Balak gives a bond to the administration to pay Rs700/- per month to the widow of Late Ram Bali and her children till her youngest son attains the age of majority and in case he refuses to do so his appointment shall be cancelled. In the present case it is submitted by the applicant that he did give the amount of Rs700/- for some time but ultimately stopped giving the said amount as he obtained stay order from the Tribunal by mis-representing the fact that her youngest son had attained majority. However, after she appeared in the said case and brought on record the correct position, the stay was vacated by the Tribunal on 03.06.1998, making it clear that no stay shall operate in this case and the respondent no.3 i.e., applicant

her son shall



herein shall be paid the amount which she was getting prior to the stay order. Thereafter she applied for grant of compassionate appointment in favour of her son as had been done in the case of Shri G.N. Dwivedi. The request of applicant was turned down by order dated 13.07.1999 (annexure-1) wherein it was stated that after giving appointment to <sup>is</sup> Shri Ram Balak, an amount of Rs700/- being deducted from his salary every month and was deposited in her account no.2183. Therefore, now she cannot ask for compassionate appointment in favour of her son because after the death of her husband, compassionate appointment had already been given in favour of Shri Ram Balak as per the order of Tribunal. It is this order which has been challenged by the applicant in the present case.

3. I have heard both the counsel and perused the pleadings as well.

4. In the earlier O.A. bearing no.740/91 Tribunal had observed that once the appointment was given to Shri Ram Balak Maurya he will have to abide by the rules. Therefore, a direction was given to the respondents that a bond be taken from the said Shri Ram Balak Murya that he would pay Rs700/- to the wife of Shri Ram Bali and her children till her youngest son attains the age of majority and in case he refuses to do so, his appointment shall be cancelled. In other words, even though the applicant had raised the issue before the court as to how her brother in law had taken the compassionate appointment by fraudulent means the matter was finally decided by the Tribunal holding the appointment of Shri Ram Balak to be correct with the rider



that <sup>he</sup> would give an amount of Rs700/- to his sister-in-law namely the applicant herein. The order dated 13.07.1998 makes it clear that they had been deducting an amount of <sup>Rs from salary</sup> Rs700/- of Shri Ram Balak and had been depositing the same in applicant's account which has been operated by her as well on 03.06.1998. Therefore, the respondents had replied to the applicant that once compassionate appointment had been given to her brother-in-law after the death of her husband she cannot claim compassionate appointment the second time. As per applicant's own averment made on page 6 of the O.A. she has herself stated that her youngest son Shri Bharat Lal Kushwaha's date of birth is 04.02.1983. Therefore, he would have attained majority on 04.02.2001. Therefore, as per Tribunal's earlier judgement also, the applicant was entitled to an amount of Rs700/- only till her youngest son attained the age of majority. Therefore, after February, 2001 she could not have any claim even as per the Tribunal Judgement given in earlier O.A.

5. Grievance of the applicant now is that during the pendency of this O.A. Shri Ram Balak has already died and it is his wife who is now claiming compassionate appointment from the department, whereas it is her right to get the compassionate appointment. In this connection, it would be relevant to refer to the Railway Board's letter dated 09-09-1980 which was also referred to in the earlier O.A. and which reads as follows:-

"Once a near relative is appointed on the compassionate ground, no further appointment should be given later on to a son or daughter of the widow of the employee on compassionate ground."

6. The perusal of this would make it clear that once



applicant's brother-in-law had been given compassionate appointment after the death of her husband, she would no longer be entitled to ask for any compassionate appointment in favour of her son. Even otherwise from the reply filed by the respondents it is seen that when Shri Ram Balak's wife applied for compassionate appointment after he was reported to be missing, the respondents did not even consider her candidature by passing an order on 20.07.2001 informing her that since her husband is alleged to be missing with effect from 13.11.2000 her case cannot be considered before the expiry of two years from the said date. Therefore, even she has not been given any compassionate appointment. In the present case since applicant had claimed that services of respondent no.3 should be terminated <sup>B who is</sup> and he has since died during the pendency of this O.A.. This O.A. would not survive any longer in view of the facts as explained above.

7. The O.A. is, therefore, dismissed with no order as to costs.



Member-J

/Neelam/