

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 15th March of 2001

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Original Application No. 982 of 2000

Mohd. Faruque S/o Late Razzak
R/o Katari Hill, Passi Tola, P.O. Gaya
Distt. ~~Gaya~~, Bihar.

.....Applicant

Counsel for the applicant:- Sri S.K.Mishra

V E R S U S

1. Union of India through the General Manager,
Eastern Railway, Fairlee Palace, 17, Netaji
Subhash Road, Calcutta-1.
2. The Divisional Railway Manager, Eastern Railway
Mughalsarai, Distt. Chandauli U.P.
3. The Senior Divisional Personal Officer,
Eastern Railway, Mughalsarai, Chandauli
4. Jaibun Nisha C/o Mumtaj Bania R/o Mohalla- Aligang
Road No. 20. P.O. Karimgang Distt. Gaya, Bihar

.....Respondents

Counsel for the respondents:- Sri P. Mathur
Sri R.C. Pathak

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of Central
Administrative Tribunal's Act, 1985, applicant has



challenged the order dt. 15.12.99 (annexure-3) by which his claim for appointment on compassionate ground has been rejected.

2. The facts in short giving rise to the application are that Razzak was serving in Eastern Railway as Mason under Senior Section Engineer (Signal). He died on 09.08.96 leaving behind applicant Mohd. Faruque and his brother Mohd. Fassi and and three ^{daughters} ~~sons~~ from the first wife, who died during the life time of Razzak and second wife Jaibun Nisha and one son and one daughter from her. Applicant applied for appointment on campossionate ground and Jaibun Nisha, second wife gave consent for the same. However, the applicant while submitting declaration form ^{ignored} ~~ignoring~~ the second wife of Late employee Razzak and two childrens from her and ^{or} ~~failed~~ to mention ^{them} in the declaration form. In the impugned order the authority concerned has observed that 'This shows that the step son, in favour of whom the widow had given consent for compassionate ground appointment in her original application dt. 30.09.96, is now totally disowning the widow and her children. The question of any compassion on such a candidate in not considered reasonable.' On this ground the claim of the applicant has been rejected.

3. The second wife, Jaibun Nisha has also raised claim for appointment on compassionate ground.

4. I have considered the submissions of learned counsels for the parties.

5. From the submissions and the material on record it appears that the only hindrance against appointment

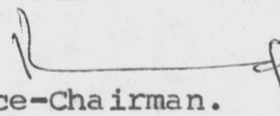
of the applicant on compassionate ground is that there is no agreement or consent among the member of the family and legal representatives left by the Late Razzak. The undisputed facts mentioned above are that three daughters from the first wife are married and they do not need any help. The two sons including applicant from the first wife require[✓] maintenance . One of them is handicapped. The applicant will also have his family in due course of time. From the second wife, Late Razzak left one daughter and one son who are still minors. They require more attention. It is also an admitted fact that during his life time Razzak was paying Rs. 200/- per month as maintenance of children through Jaibun Nisha under the court's order. It is also undisputed fact that the pensionary benefits left by Razzak have been divided equally among the heirs from the first wife and second wife. It is true that while giving appointment on compassionate ground interest of the family members left by the deceased employee has to be seen, but public interest has also to be looked after. The two interests can, in my opinion, be best served by keeping a balanced approach. In the present case applicant is an young man and he can serve on the post for long time and in for better way than Jaibun Nisha who is an old lady[✓] who[✓] can serve only for few years. In the above circumstances, in my opinion, the only objection against the appointment on compassionate ground in favour of the applicant, can be removed by an arrangement which may be carried on by ~~both~~[✓] the sons[✓] and daughter[✓] from both wives and amount may be paid to them directly by the department. The learned counsel for parties have agreed that the amount of the salary received by the applicant after appointment may be divided in the ratio of 60 and 40. 60% of the salary should be paid to the heirs from first wife and 40% to



the sons from the second wife and for herself.

6. For the reasons stated above this O.A is allowed. The impugned order dt. 15.12.99 is quashed. The respondents are directed to provide appointment to the applicant on compassionate ground in accordance with rules, for the post he may be found suitable within two months. The salary including other benefits which may payable against such appointment, shall be divided in the ratio mentioned above. The 60% of the amount shall be paid to the applicant and remaining 40% shall be paid to Jaibun Nisha by the department. This arrangement of the payment shall continue until it is altered or modified by the competent authority after hearing parties on account of change in the circumstances.

7. There will be no order as to costs.


Vice-Chairman.

/Anand/