

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

**HON'BLE MR. A.K. GAUR , MEMBER (J).**

**Original Application Number. 1041 OF 2006.**

ALLAHABAD this the 7 day of 8, 2009.

Kumari Mamta Kashyap, aged about 22 years, daughter of Rajendra Kumar, missing employee under Chief Traveling Ticket Inspector, North Eastern Railway, Bareilly City, resident of House No. 148, Mohalla-Rajeev Colony, Pilibhit P.O and District- Pilibhit (U.P).

.....Applicant.

**VERSUS**

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur, P.O and District- Gorakhpur (U.P.).
2. The Divisional Rail Manager, North Eastern Railway, Izatnagar, P.O. Izatnagar, District- Bareilly U.P.
3. The Divisional Rail Manager (Personnel), North Eastern Railway, Izatnagar, P.O, Izatnagar, District Bareilly, U.P.
4. Smt. Veermati, second widow of Rajendra Kumar, D/o Ram Bilash, r/o Rajeev Colony, P.O. and District- Pilibhit, U.P.

.....Respondents

Advocate for the applicant: Sri S. Ahmad  
Advocate for the Respondents: Sri K.P. Singh

**ORDER**

The applicant Through this O.A filed under section 19 of Administrative Tribunals Act, 1985 has prayed for quashing the impugned order dated 18.08.2006/Annexure -1 of O.A coupled with prayer for a direction commanding the respondents to issue appointment letter to the applicant on compassionate grounds on a suitable post.

2. The case of the applicant, in brief, is that the father of the applicant Shri Rajendra Kumar, who was working as Squade Chowkidar

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under Chief Traveling Ticket Inspector Bareilly city is missing since 21.06.1996. An FIR to this effect was lodged with Sungarhi Police Station District Pilibhit but his whereabouts could not be traced out. According to the applicant, during the service period her own mother died. After the death of applicant's own mother, her father married with Smt. Veermati/Respondent No. 4 without obtaining permission from the Railway Administration as indicated in letter dated 30.04.2001. After waiting considerable time the grandfather of the applicant made an application dated 04.03.2001 for payment of settlement dues and also for Compassionate appointment in favour of Kumai Mamta Kashyap/ the applicant as and when she becomes major. In response thereto the respondent No. 3 sent a letter dated 30.04.2001 addressed to the grandfather of the applicant requiring certain information including the date of marriage of the applicant father with respondent No. 4. The grandfather of the applicant vide his application dated 15.05.2001 furnished the requisite information but the respondents intimated him that neither any payment of settlement dues would be made nor appointment on compassionate ground could consider before expiry of 7 years from the date of missing of Shri Rjendra Kumar. Aggrieved by the action of the respondents the grandfather of the applicant filed Original application No. 958 of 2008. In the meanwhile the respondents issued a letter dated 13.03.2002 requiring applicant's eligibility for getting one and half portion of Family Pension. The grandfather of the applicant died on 26.10.2003.

3. According to the applicant, she received a letter dated 08.01.2004 requiring her to complete the pension papers accordingly she handed

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over all the requisite documents alongwith a fresh application on 20.01.2004 for appointment on compassionate ground.

4. Learned counsel for the applicant referred to Railway Boards letter No. E(NG) II/84/RC-1/26 dated 21.11.1994 which provides that the case for compassionate appointment should not be more than 20 years old and the request for the compassionate appointment should be received by the Railway Administration within a period of 2 years of attaining majority by the first child and submitted that as the father of the applicant was missing from 21.06.1996 and the date of birth of the applicant is 01.07.1984 she is quite eligible for being considered for appointment on compassionate grounds. The applicant submitted a detailed representation dated 15.07.2006 before respondent no. 1 for appointment on compassionate grounds, which the respondents has rejected vide order dated 18.08.2006 Annexure-1 of O.A.. The grievance of the applicant is that the grounds on which the application of applicant has been rejected are against the policy letter of the Railway Board dated 28.04.1985, 07.08.1999, 02.01.1992 and 21.11.1994 and the respondents have totally failed to taken into account the Railway Instructions and have rejected the claim of the applicant in an arbitrary manner. Learned counsel for the applicant further submitted that the impugned order does disclose any reason and is not sustainable in the eyes of Law.

5. On notice, the respondents have filed Counter Affidavit. Learned counsel for the respondents invited our attention to para 8(ii) of relief clause and submitted that the applicant is seeking direction to the respondents to issue appointment letter on compassionate grounds in her favour whereas, as per Hon'ble Supreme Court's decision rendered in

the case of **LIC Vs. Mrs. Asha Ram Chandra Ambekar & Ors. - JT 1994(2) SC 183**, the High Court and Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds but can merely direct for consideration of the claim on such an application. Learned counsel for the respondents further argued that Smt. Asha the first wife of Shri Rajendra Kumar died on 18.06 1985 after which he got married with Smt. Veermati on 24.04.1988, therefore, the question of taking of any permission for his second marriage does not arise as there is no provision for taking permission of second marriage after death of first wife.

6. Learned counsel for the respondents would further contend that since Smt Veermati/ Respondent No. 4 is the legally wedded second wife of the deceased employee and she requested for her own appointment on compassionate ground the same was considered and after completing all formalities she was appointed as Helper-II (Carriage and Wagon) at Pilibhit, Therefore, the claim of the applicant for compassionate appointment cannot be considered. Moreover, as the applicant was the nominee so all the settlement dues made to her and the pension was equally divided into two parts between the respondents no. 5 and the applicant.

7. Applicant has not filed rejoinder affidavit. Despite opportunity being given.

8. I have heard rival contentions, and perused the pleadings.

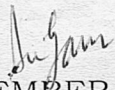
9. Having heard learned counsel for the parties, I am firmly of the opinion that in view of the decision rendered by Hon'ble Supreme Court in the case of **LIC Vs. Asha Ram Chandra Ambekar (Supra)**, this

Tribunal cannot issue direction to the respondents to appoint the applicant on compassionate grounds, as claimed by the applicant in para 8(ii) of O.A and this prayer is rejected.

10. So far as the prayer for the applicant for quashing the order dated 18.08.2006 rejecting the application for appointment of applicant on compassionate grounds is concerned, I am of the considered opinion that as the respondent No. 4/Smt. Veermati has already been given appointment on compassionate grounds being legally wedded second wife, who got married with the deceased employee Late Rajendra Kumar after the death of his first wife, therefore, the applicant cannot claim for appointment on compassionate grounds in her favour.

11. In view of the aforesaid observation and law laid down by Apex Court, the applicant has failed to make out any case for interference. Accordingly the O.A is dismissed being devoid of merit.

12. There will be no order as to costs.

  
MEMBER- J.

/Anand/