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O.A. No. 107 of 2009

Order dated: 24.03.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Heard Mr. R.K.Pattnaik, Ld. Counsel appearing for the applicant and Mr. S.K.Ojha, Ld. Standing Counsel for the Respondents, on notice.

2. M.A. 160/09, filed for joint prosecution of the case, is allowed.

3. The applicants, the wife, as claimed, and the son of a deceased Muslim employee, who died on 13.05.2007, filed this O.A. for a direction to the Respondents to allow pensionary benefits to the first applicant and a compassionate appointment under the compassionate appointment scheme for the second applicant. For the above purpose, the applicants have already filed necessary certificates such as Annexure-A/1 and A/2 and also some other documents and further, the applicants have filed a representation on 27.08.2007. Since there was no order in favour of the applicants from the Respondents, they approached this Tribunal in the present O.A.

8

4. We have gone through the averments in the O.A. and claim put forward therein.

5. The applicants are the wife and son of the Railway employee, who was working as Fitter (C&W) under the Divisional Personnel Officer, East Coast Railways, Khurda Road and died on 13.05.2007. The applicants claiming the pensionary benefits of the deceased employee and also an appointment under the rehabilitation scheme filed their application with required documents including that of DLHC certificate issued by the Tehsildar concerned. However, the Respondents are keeping silent on the above aspect inspite of Annexure-A/5 representation. Hence, the present O.A. has been filed. Annexure-A/1 and A/2 are documents showing the death and legal-heir certificates respectively. However, it is admitted in the O.A. that the deceased employee had more than one wife, being a Muslim Personal Law permits to do so. However, the question to be considered by the authorities is that who is actually entitled for the benefit claimed in the O.A. and that can be decided as per the Personal Law of the Muslims.

6. In the above circumstances, the rival claim is also to be looked into by the Respondents, if any, put

5

forward by any other wife or the children of the deceased employee. Accordingly, the matter shall be considered in accordance with the provisions of the Personal Law of the deceased employee and also on the information, which is furnished with the Department regarding his service particulars and relationship with his family members.

7. In the above circumstances, this Tribunal is of the view that even at the admission stage, this O.A. can be disposed of by directing Respondent No.2 to consider Annexure A/5 representation and to pass a final order in the above matter as per the observations made in this order with regard to the Personal Law or whatever law applicable as per the Railways concerned with such officers within a reasonable time at any rate within 60 days from the date of receipt of a copy of this order. Ordered accordingly.

8. The O.A. is accordingly disposed of. No costs.

9. A copy of this order and a copy of the O.A. also be presented to the 2nd Respondent by the Counsel appearing for the Respondents, Mr. S.K.Ojha for further action in the above matter.

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MEMBER (J)

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