

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 174 OF 2011
CUTTACK, THIS THE 14th DAY OF JULY, 2013**

**CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)**

1. Smt. Padmini Haripal,
aged about 24 years, W/O. Durgalal Haripal,
D/O. Late Nrupa Sagar, Ex-Mate, Office of P.W.I.,
East Coast Railway, Bolangir, Permanent resident
of Village Kesarpura, P.O. Jaloi, P.S. Birmaharajpur,
District Subarnapur.
2. Hemant Kumar Sagar,
Aged about 17 years, Son of Nrupa Sagar,
being a minor represented through his sister guidian
Smt. Padmini Haripal, W/O. Durgalal Haripal,
D/O. Late Nrupa Sagar, Ex-Mate, Office of P.W.I.,
East Coast Railway, Bolangir, Permanent resident
of Village Kesarpura, P.O. Jaloi, P.S. Birmaharajpur,
District Subarnapur.

.....Applicant
(Advocate: M/s. N.R. Routray, S. Mishra, T.K. Choudhury)

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Union of India Represented through

1. The General Manager,
East Coast Railway, Rail Vihar,
Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Divisional Railway Manager,
East Coast Railway, Sambalpur Division,
At/Po.-Kshetarajpur, Town/Dist.-Sambalpur.
3. Sr. Divisional Personnel Officer,
East Coast Railway, Sambalpur Division,
At/Po.-Kshetarajpur, Town/Dist.-Sambalpur.
4. Minakshi Sagar, W/o. Late Nrupa Sagar,
At present C/o. Iswar Tanri, near Railway Colony
Siba Temple, At/Po./Town/Dist.Bolangir.

..... Respondents
(Advocate:Miss S.L. Patnaik)

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MR.A.K.PATNAIK, MEMBER(J):

Instead of going in details, it would suffice to state that Shri Nrupa Sagar while working under the PWI, E.Co.Railway, Bolangir, as Mate breathed his last in harness on 27.7.2009 and as per the legal heir certificate Nrupa Sagar left behind his widow (Smt. Minakhi Sagar), Two sons (Hemant Kumar Sagar and Subudhi Sagar) and one daughter (Padmini Haripal). Thereafter, based on said legal heir certificate the death retirement dues were released in favour Smt. Minakhi Sagar (Respondent No.4) as the widow of ex-employee and legal guardian of the minor children. By making representation dated 3.1.2011, Padmini Haripal (Applicant No.1), stating to be the legal guardian has sought appointment on compassionate ground in favour of Hemant Kumar Sagar (Applicant No.2) in this OA. Thereafter, alleging no action and as Minakshi Sagar is their step mother and has taken all the death retirement dues, this OA has been filed seeking direction to the Respondents to provide appointment on compassionate ground in favour of Applicant No.2.

2. Respondents filed their counter in which it has been stated that in terms of Rule 71 (b) (i) of the Railway Servants (Pension) Rules, 1993 the married daughter of a deceased employee is not entitled to any share on the death cum retirement dues of a railway servant. It has been stated that the applicant No.2 was eligible for one equal share on the Death cum Retirement Gratuity as per Rule 70(5)(iii) of Railway Servants (Pension) Rules, 1993. As the applicant No.2 was a minor at that time, the share was paid to his mother who is his natural guardian as per Rule 71 (4) of the Rules. Further stand of the Respondents is that as per the Railway Board's

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instruction (RBE No.03/2009) the competent authority has to consider compassionate appointment in favour of the widow/widower or any ward of her/his choice. In the instant case the Respondent NO.4 has sought employment on compassionate ground in her favour but the said request has been kept in abeyance due to pendency of the present case. They have also expressed their wiliness to consider the case of the applicant No.2 subject to nomination for such appointment in favour of the Applicant No.2 and withdrawal of the application seeking employment in her favour by the Respondent No.4.

3. We have heard Mr. N.R.Routray, Learned Counsel for the Applicant and Ms.S.L.Patnaik, Learned panel Counsel for the Railway-Respondent and perused the records. Despite notice Respondent No.4 has neither appeared nor filed any counter reply.

4. As per the Rules widow has first preference in getting appointment on compassionate ground and for any reason she cannot take up the appointment she can nominate any of the members/wards for such appointment. In the instant case, since the widow has sought appointment on compassionate ground this Tribunal has no jurisdiction to direct the Respondents to ignore her application and to consider providing appointment on compassionate ground in favour of Applicant No.2. In view of the above, I find no reason to interfere in this OA. This OA is accordingly dismissed by leaving the parties to bear their own costs.


(A.K.Patnaik)
Member (Judl.)