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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 242 of 2010
Cuttack, this the ~~21st~~ day of April, 2011

Ahalya DeiApplicant

-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

(A.K.PATNAIK)
Member(Judl)

(C. R. MOHAPATRA)
Member (Admn.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 242 of 2010
Cuttack, this the 1st day of April, 2011

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

Smt. Ahalya Dei aged about 31 years, D/o.Smt. Sebati Ex-Safaiwala at present residing nears Qr.No.E/8B/C, Traffic Colony, PO-Traffic Colony, PS-Jatni, Dist. Khurda.

.....Applicant

By legal practitioner: M/s.R.K.Samantsinghar, D.Paikray,
A.K.Mallick, S.K.Ray, Counsel.

-Versus-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar, At/Po- Chandrasekharpur, Dist. Khurda.
2. Chief Personnel Officer, East Coast Railway, 2nd Floor, South Block, Bhubaneswar, At/Po/PS-Chandrasekharpur, Dist.Khurda.
3. The Divisional Railway Manager, East Coast Railway, Khurda Road Division, Jatni, PO/PS-Jatni, Dist. Khurda.
4. The Senior Divisional Personnel Officer, East Coast Railway Khurda Road Division, Jatni, PO/PS-Jatni, Dist. Khurda.

.....Respondents

By legal practitioner: Mr.M.K.Das, Counsel

O R D E R

MR. C.R.MOHAPATRA, MEMBER (ADMN.):

Applicant is the daughter of Smt. Sebati who while working in the Railway as Safaiwala suffered from cancer and as a consequence was declared medically unfit to serve the Railway in any other category by the competent medical authority vide letter No. M/29/294 dated 11.5.2000. Applicant claiming to be the

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dependent daughter being a divorcee, in enclosing copy of the School Leaving Certificate purportedly issued by the Headmaster/Mistress of Purna Chandra High School Vidyalaya, At/Po.Kurumapada, Dist- Cuttack, in support of her qualification, sought appointment on compassionate ground in the Railway. On receipt of the said application, in letter under Annexure-A/3 dated 7.10.2002 while asking the Applicant to produce the death certificate of the husband of the ex employee, divorcé deed of the applicant it was intimated that on verification it was found that no such school from which the SLC was obtained and produced exists in the village. Hence, a request was made by the Railway Authority to comply with the above infirmity in the application. According to the Applicant, despite submission of the death certificate of the father of the applicant, divorce decree passed by the Learned Judge, Family Court, Cuttack dated 25.1.2005 and the SLC through application under Annexure-A/4 dated 15.5.2005, Respondents without due application of mind informed the Applicant in Annexure-A/7 dated 28.11.2008 that 'no document has been produced to confirm the divorce of the applicant. Hence, until the same is produced no further action can be taken. Moreover it is seen that the School from where you have produced the educational certificate is not in existence. In view of the above,

the case is treated as closed.' This order has been challenged by the Applicant in the present OA with prayer to quash the order and direct the Respondents to provide her appointment on compassionate ground.

2. In the counter, the Respondents stoutly opposed the contention of the Applicant. Their stand is that despite adequate opportunity, the Applicant failed to submit the required documents such as certificate in support of educational qualification, divorce decree to prove the dependency and the death certificate of her father. Vide application, she submitted the summon of the divorce suit, the school in which the applicant was allegedly reading and obtained the SLC was not in existence and that there is no provision for relaxation of qualification for married daughter and the instruction on which reliance has been placed by the Applicant relates to relaxation of qualification of widow only but not for married daughter. Putting emphasis on the above points Respondents' Counsel have also filed written note of submission and in that event they have prayed for dismissal of this OA.

3. Applicant has filed rejoinder, more or less reiterating the stand taken in the OA.

4. Reiteration of the submissions made in the respective pleading of the parties having been considered, perused the materials placed on record. Time without number, it has been held by Hon'ble Apex Court that appointment on compassionate ground is not an alternative source of employment. The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post held by the deceased. Further, mere death of an employee in harness does not entitle his family to such source of livelihood. Though financial condition of the family of the deceased is not a criterion for providing appointment in the Railway, yet fulfillment of other conditions such as educational qualification etc. cannot be wiped out. Compassionate appointment cannot be granted to a post for which the candidate is ineligible. Claim for compassionate appointment is traceable only to specific scheme framed by employer and there is no right whatsoever outside such scheme. The Tribunal cannot arrogate to itself the powers of the executive or legislature. It is open to the Railway to frame necessary rules prescribing the requisite qualifications and it is also open to the authorities to lay down such perquisite conditions for appointment as would be conducive to the maintenance of proper

discipline in the administration. From the pleadings we do not see any lapse on the part of the Respondents in the matter of providing appointment on compassionate ground to the Applicant. As it appears from record, the Respondents have allowed sufficient opportunity to the Applicant to substantiate the right with reference to the documents such as decree of divorce in support of dependency, educational qualification, death certificate etc. but the applicant miserably failed to avail of the said opportunity by not producing the necessary documents as inasmuch as applicant failed to establish the existence of the School in which she was studying and obtained the certificate as it is the specific case of the Respondents that on enquiry it was found that school in question was not in existence. The Headmaster of the School has also not been made as a party to this OA. Had he been made as a party it could have been established that the stand of the Respondents is not at all genuine. This apart, it is seen that provision for providing appointment on compassionate ground to divorced/widow daughter came into existence in the Railway through instruction No. E (NG) II/2001/RC-1/ER/5 dated 21.11.2001 whereas the medical invalidation of the mother of the applicant was in 2000 and the instruction has no retrospective application.

5. In the light of the discussions made above, we find no merit in this OA. This OA stands dismissed by leaving the parties to bear their own costs.


(A.K.PATNAIK)
Member (Judl.)


(C.R.MOHAPATRA)
Member (Admn.)