

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.77/2013

Jodhpur this the 27th day of November, 2013

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J),
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Prakash Chandra S/o Late Shri Sewa Ram, R/o Kirti Stambh, Rawto ka Mohalla, Shiva Coaching Centre, Bikaner (Raj.), at present village Post Kothund Inguri Naka Mohalla, District Jalore (U.P.) his mother was working on the post of Paniwali under the respondent No.2.

.....Applicant

Mr. S.S. Nirban, counsel for applicant.

Versus

1. Union of India through General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Bikaner.
3. Divisional Personnel Officer, North Western Railway, Bikaner.

.....Respondents

Mr. Vinay Chhipa, present for respondents.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

By way of this application, the applicant has prayed to consider his candidature for the post of Group "D" in the Railway Department.

2. The short facts of the case as averred by the applicant are that the father of the applicant Late Shri Sewa Ram was working as cleaner and posted at Suratgarh Railway Station and expired on 21.01.1979. The applicant, at the time of death of his father, was

minor and therefore his mother Smt. Meena Kumari was given an appointment under dependents of deceased employee rules. It has been further averred that from the wedlock of Late Meena Kumari and Late Sewa Ram, two sons were born and out of those applicant is the eldest one. It has been further averred that Late Meena Kumari after expiry of her husband, Late Shri Sewa Ram, solemnized second marriage on 20.09.1982 with Shri Ramesh Kumar Chug, resident of Bikaner and from that wedlock Smt. Meena Kumari delivered two sons. The mother of the applicant while working on the post of Paniwali expired on 12.04.2009. The applicant Prakash Chandra, after the expiry of his mother, applied for appointment under Deceased Quota Rules on compassionate ground. The application of applicant was under process, and during that time the applicant came to know that his uterine blood brother had also submitted an application for appointment on the compassionate ground. Thereafter, the matter for giving appointment was under investigation by the respondent No.2. The respondent No.2 asked certain documents from the applicant to examine the veracity of case and the applicant submitted the same vide Annexure-A/3. The applicant also submitted a notice through his counsel and requested the respondent department to consider his case for appointment on compassionate grounds. It has been further averred that applicant and his younger brother are sole dependent of Smt. Meena Kumari and Late Shri Sewa Ram, whereas uterine blood brother is son of Late Meena Kumari and Ramesh Kumar Chug. Therefore, the applicant aggrieved by the

non-action of the respondents and failure to consider his candidature for appointment on the compassionate grounds has filed this OA for the following reliefs:-

- "(i) *That respondents may kindly are directed to consider applicant's case for compassionate appointment on merits.*
- (ii) *That respondents may kindly be further directed not to indulge in controversy raised by applicants uterine blood brother as his case does not come in definition of dependents of deceased parents namely Meena Kumari and Sewa Ram who were employee of Northern Western Railway, Bikaner Division.*
- (iii) *Any other favourable order which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.*
- (iv) *Original Application filed by the applicant may kindly be allowed."*

3. The respondents, by way of reply, admitted the fact of appointment of Smt. Meena Kumari wife of late Shri Sewa Ram under compassionate grounds as Waterman (Paniwali) in the Commercial Deptment on account of death of her husband late Shri Sewa Ram. It has been further averred that after getting remarried to Ramesh Kumar Chug, the applicant Prakash Chandra & Mukesh were accepted by Shri Ramesh Kumar Chug as his sons and he also agreed to take responsibility of both the sons. It has been further averred that Shri Ramesh Kumar Chug was also working in the Railway Department but was removed from service from Railway Department on 03.05.2005 on charges of misappropriate of funds. The mother of the applicant Smt. Meena Kumari after joining the Railway service on 05.08.1979, remained absent from duty w.e.f. 18.04.1985 till date of death i.e. 12.04.2009 and as she did not join duty and remained absent, therefore, salary was not paid to her after 18.04.1985. The applicant's mother was also served with a charge sheet but after her death, the same was dropped, pursuant to the relevant Railway Board's circulars. It has been further averred in the reply that after

death of the applicant's mother, late Smt. Meena Kumari, her husband Shri Ramesh Kumar Chug submitted an application dated 22.03.2010 for appointment on compassionate grounds for his son Rakesh Kumar and after receiving the application from Shri Ramesh Kumar Chug, the answering respondents asked him to submit No Objection Certificate from applicant Prakash Chandra & Mukesh. In pursuance to that, it was advised by Shri Ramesh Kumar Chug that the applicant Prakash Chandra & Mukesh both are married and their where about are not known to him. However, after receiving the notices from the applicant, the Railway department started the investigation of the matter and the applicant was advised to submit documents vide letter Annexure-A/2. It has been further averred that the case of Rakesh Kumar S/o Shri Ramesh Kumar Chug was considered for appointment on compassionate grounds and the same was rejected by the respondent No.2 (Divisional Railway Manager, NWR, Bikaner) and the same was also affirmed by the General Manager, NWR, Jaipur, as may be seen as at Annexures-R/6, R/7 and R/8. Thus, the respondents by way of reply averred that no case worth consideration is in favour of the applicant, as at the time of death of Smt. Meena Kumari, her husband, Ramesh Kumar Chug, was alive and he alone could have applied for the compassionate appointment for the applicant as per circular dated 06th January, 2009 (Annexure-R/2) and he gave his consent for appointment of his son Rakesh Kumar, which was rejected after due consideration.

4. We have considered the rival contentions of both the parties and perused the record. As per Annexure-R/2, Railway Board Circular dated 06.01.2009 issued by the Government of India, Ministry of Railway (Railway Board), it has been provided that only widow/widower or any ward of her/his choice in respect of cases up to 20 years old from the date of death Railway employee can be considered for appointment on compassionate grounds. In this case, at the time of death of Smt. Meena Kumari, her husband Shri Ramesh Kumar Chug was alive and he gave his consent for appointment for his son Rakesh Kumar Chug. The respondent department accordingly considered the case of Rakesh Kumar for appointment on compassionate grounds and the same was rejected by Annexure-R/6 and that was affirmed by the higher authorities also.

5. Accordingly, no case is made out in favour of the applicant to consider his case for appointment on compassionate grounds. Thus, the OA is dismissed with no order as to costs.



(Meenakshi Hooja)
Administrative Member



(Justice K.C. Joshi)
Judicial Member