

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH.

Original Application No. 1160/97

Date of order: 07.06.2004

The Hon'ble Mr. R.K. Upadhyaya, Administrative Member.

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

1. Smt. Nila Paul w/o late Jatindra Nath Paul, EX CPC Gangman under CPWI(W) SRC, S.E. Rly, residing at Vill. Madari PO Kantapukur, Dist. Howrah.
2. Shri Madan Paul, S/o late Jatindra Nath Paul aged about 35 residing at Vill. Madari, PO Kantapukur, Dist. Howrah.

: Applicant.

rep. by Mr. A. Chara : Counsel for the applicant.

versus

1. Union of India service through the General Manager, S.E.Rly, Garden Reach, Calcutta 43.
2. Divisional Railway Manager, S.E.Rly, Kharagpur.
3. Sr. Divisional Personnel Officer, S.E Rly, Kharagpur.
4. Chief Permanent Way Inspector (West) S.E. Rly., Santragachi.

: Respondents.

rep. by Ms. B. Mondal : Counsel for the respondents.

ORDER

Mr. J.K. Kaushik, Judicial Member.

Smt. Nila Paul and Shri Madan Paul have filed this Original Application for seeking a direction to the respondents to consider the case of the applicant No. 2 for appointment on compassionate grounds.

2. The brief facts of this case are that the applicant No. 1 is the wife of Shri Jatindra Nath Paul who was employed on the post of CPC Gangman under CPWI/W/SRC, at South Eastern Railway. Shri J.N. Paul served in the Railway for about 15 years and died in harness on 17.02.82, while in active service. The said Shri J.N. Paul had attained the temporary status on 24.10.67. The applicant no. 2 is the son of the deceased railway servant, Shri J.N. Paul. Certain details regarding the grant of family pension had been given indicating that after lot of struggle the applicant No. 1 has been granted family pension. An application was moved to the respondents for considering appointment to the applicant No. 2 on compassionate grounds. The Divisional Personnel Officer, South Eastern Railway, opined that as per the Railway Board's circular dated 31.12.86, the applicant No. 2 could not be considered for grant of compassionate appointment. The Assistant Labour Commissioner (Central)/III sent the complaint given by the applicant No. 1 to the Chief Personnel Officer S.E. Rly and to the Sr. Divisional Personnel Officer for considering the case of the applicants. A reference has been given for grant of such appointment in respect of similarly situated persons. The OA has been filed <sup>on the ground</sup> that the applicant's husband was declared as a regular employee by this Bench of the Tribunal and therefore the applicant No. 2 was entitled for the grant of appointment on compassionate grounds.

3. No reply has been filed on behalf of the respondents in this case and as far as the facts which have been pleaded in the O.A, the same are to be treated as admitted.

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4. We have heard the learned counsel for the parties and considered the pleadings and records of this case. The learned counsel for the applicant has submitted that subsequent to the filing of this O.A, it has come to the notice of the applicant that the Railway Board had issued a circular No. RBE.39/97, wherein it has been decided that the cases of appointment of the ward of the deceased temporary status casual labour was also to be considered in case the death occurred prior to 31.12.86. He has submitted that the earlier circular was to apply only in the cases where the death of the railway servant occurred after 31.12.86. Incidentally, in the instant case, the father of the 2nd applicant expired in the year 1982, i.e. earlier to the said cut off date. He has submitted that the respondents may be directed to consider the case of the applicant as per their own circulars.

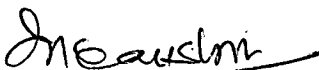
5. The learned counsel for the respondents did not seriously dispute the legal position especially the issuance of the Railway Board's circular and only submitted that at the time of death of the second applicant's father there was no rule granting compassionate appointment to the casual labourer with temporary status.

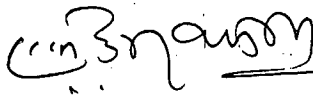
6. We may notice that the Railways have issued specific circulars for regulating the cases of compassionate appointment. A comprehensive study has to be made while dealing with the various provisions relating to the compassionate

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appointment in the Railways <sup>and</sup> A coordinate Bench of this Tribunal at Jaipur, in the case of Nirmala Devi vs. UOI and others ( 2002 (1) ATJ- CAT 261) had held that means test is not envisaged in any of the provisions framed by the competent authority. We hope and trust that the competent authority shall take judicial notice of the same.

7. In the premise, we find that O.A merits acceptance and it has to be allowed and accordingly it is allowed. The respondents are directed to consider the case of the applicant No. 2 for grant of compassionate appointment <sup>as per Rules</sup> on a suitable post within a period of three months from the date of receipt of a copy of this order. No costs.

  
( J.K. Kaushik )  
Judicial Member

  
( R.K. Upadhyaya )  
Administrative Member

jsv.