

**Central Administrative Tribunal  
Lucknow Bench Lucknow**

Original Application No.339/2007  
This, the 25 day of April 2008

**Hon'ble Mr. M. Kanthaiah, Member (J)**

Smt. Neeta aged about 28 years, wife of late Nand Kishore,  
T.No.651/B/residen of village Saha-Khera, Arjunganj, Lucknow.

Applicant.

**By Advocate Shri Hari Ram.**

Versus

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Works Manager, Northern Railway, Carriage & Wagon Workshop, Alambagh, Lucknow.

Respondents.

**By Advocate Shri S. Verma.**

**ORDER**

**By Mr. M. Kanthaiah, Member (J)**

The applicant has filed this Original Application under Section 19 of the Administrative Tribunal Act, 1985, to issue direction to the Respondent No.2 to consider the representation of the applicant Dt. Nil for appointment on compassionate ground and also for grant of family pension and other reliefs.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that she has not produced any Judgment/ decree to prove that she is the legally wedded wife of deceased Nand Kishore, to claim any of such reliefs.

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and also reiterated her pleas in the OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for compassionate appointment and for other reliefs as prayed for.

6. The admitted facts of the case that that the Late Nand Kishore Ticket No.651-B, while working under Respondent No.-2 died on 25.07.1991. It is case of the applicant that she is the second wife of the deceased Nand Kishore. When the applicant made representation covered under Annex-5 as legally wedded wife of the Late Nand Kishore and claimed compassionate appointment and also family pension, Respondent have issued letter Dt. 23.02.2006 (Annex-6) asking her to produce the copy of judgment or decree declaring that she is the legally wedded wife of the Late Nand Kishore, for claiming such reliefs.

7. It is also not in dispute that the applicant obtained succession certificate under Section-372 of Indian Succession Act, 1925 in Miss. Case No.279/1991 on the file of 5th Additional District judge (Senior Division), Lucknow, which is in respect of grant of succession certificate in respect of estate of the deceased. In the said succession claim, the marital status of the parties relating to legally wedded wife of Late Nand Kishore could not have been determined and further the claim of the applicant seeking compassionate appointment from the respondent was also not a subject matter and as such the succession certificate was not considered by the respondent authorities. They have further stated that the status of the applicant as legally wedded wife of Late Nand Kishore has to be adjudicated in the appropriate court as per the law and basing

on succession certificate, the applicant is not entitled for any relief as prayed in the OA.

8. The applicant also filed Case No.279/1991 on the file of Civil Judge IV, (Senior Division), Lucknow and obtained secession certificate in respect of the estate of the deceased Late Nand Kishore and obtained secession certificate. Subsequently, by way of an Appeal on the file of Additional District Judge, Lucknow MCA-16/2005, 1/3 share in the estate of the deceased was granted to the applicant. Annex-2 is the copy of judgment in 279/1991 and whereas Annex-3 is the copy of judgment passed by the Appellate Court in MCA No.16/2005. Thereafter, the applicant when made representation covered under Annex-5 Dt. Nil, claiming compassionate appointment on the ground that she is the legally wedded wife of Late Nand Kishore, respondent authorities asked her to produce the judgment or decree from the competent court, declaring that she is the legally wedded wife of the deceased Late Nand Kinsore. Without obtaining any such decree, the applicant filed this OA for issuing direction to the respondents for considering her subsequent representations for appointment on compassionate ground and also for family pension.

9. It is the case of the applicant that she is the legally wedded wife of the deceased Late Nand Kishore and she is entitled for compassionate appointment and family pension. The respondents have denied the relationship of the applicant that she is legally wedded wife of the deceased Late Nand Kishore and as such they asked her to produce the copy of decree/judgment declaring that she is the legally wedded wife of the deceased Nand Kishore.

10. It is the case of the applicant that she ~~filed a case~~ obtaining succession certificate in respect of the estate of the deceased pertaining to his terminal benefits and in the said judgment the court also held that she was legally wedded wife of the deceased Late Nand Kishore and as such she is entitled for compassionate appointment and thus relied on the judgment Annex-A-2 and Annex-A-3. Admittedly, the applicant filed the claim covered under Annexure-A-2 in respect of succession certificate relating to the estate of deceased Late Nand Kishore in respect of his terminal benefits in which, these respondents are not at all party and no directions are given to the respondents to make payments in respect of the claim of the applicant. Similarly, Annex-A-3 is the judgment/decree of the Appellate Court against the judgment in Case No. 279/1991 covered under Annex-A-2 in which, the Appellate court allotted 1/3 share of the deceased to the applicant. In the said judgment there was reference that applicant was the wife of the deceased Late Nand Kishore.

11. Admittedly the claims relating to the applicant covered under Annex-A-2 and Annex-3 is in respect of succession certificate and in such matter deciding marital status of any party does not arise. Further when the respondent authorities asked the applicant to obtain a decree from the competent court, declaring that she was the legally wedded wife of the deceased Late Nand Kishore, without obtaining any such declaration, relying on the succession certificate relating to some of the estate of the deceased is not at all maintainable. As such, there are no merits in the claim of the applicant to seek any direction from the respondents for her appointment on compassionate ground as legally wedded wife of the deceased Late Nand Kishore without complying their

objection more particularly without obtaining the decree and judgment for declaration that she is the legally wedded wife of the deceased Late Nand Kishore. Similarly, even for deciding the claim of family pension such decree of declaration from the competent court is required and as such, the applicant without producing such decree from the competent court, Annex-2 and Annex-3 are not helpful for deciding the claim of the applicant for compassionate appointment and family pension. Thus, there are no merits in the claim of the applicant to allow any of her claims and as such, the OA is liable for dismissal.

In the result, OA is dismissed. No costs.

  
**M. Kanthaiah,  
Member (J)**

25-04-2008

/amit/