

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 151 of 2010

Date of Decision 1st March, 2012

Hon'ble Mr. Navneet Kumar, Member-J

1. Km. Pinki Tiwari, Aged about 20 years, D/o late Shri Vasudev Tiwari.
2. Smt. Savitri Devi, aged about 51 years, W/o late Shri Vasudev Tiwari.

(R/o K/19-C Type I Kamaushi Railway Colony, Alambagh, Lucknow.

.....Applicant

By Advocate : Sri Praveen Kumar

Versus.

1. Union of India through GM, N.R., Baroda House, New Delhi.
2. The Chief Works Manager, Carriage & Wagon shop, N.R., Alambagh, Lucknow.

..... Respondents.

By Advocate :Sri Amar Nath Singh Baghel for Sri M.K. Singh .

O R D E R (Oral)

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 with the following main relief(s):-

"(i) to consider the case of the applicant no.1 for appointment on compassionate ground after quashing the impugned order dated 19.3.2009, contained in Annexure no.A-1 to this O.A. with all consequential benefits".

2. The case of the applicant is that the father of applicant no.1 died in the year 2007 while he was working on the post of Fitter under the respondent no.2. The applicant no.1 made a representation for appointment on compassionate ground. Subsequently, the applicant no.1 was asked to participate in the suitability test which includes written examination followed by Viva Voce test in which applicant was declared failed for Group 'C' post and the case of the applicant was finally rejected by means of order dated 19.3.2009 stating therein that the applicant no.1 is adopted daughter of the deceased employee.

3. On behalf of the respondents, detailed Counter Reply has been filed controverting the averments made in the O.A. It is pleaded by the respondents that in terms of Railway Board's instructions in regard to appointment on compassionate grounds if the widow is not in a position to undertake a job, then son/daughter who has attained the majority i.e. 18 years may be considered for appointment on compassionate grounds.

4. On behalf of the applicant, Rejoinder Reply has also been filed refuting the averments made in the Counter Reply while reiterating the averments made in the O.A. The applicant once again stated in the Rejoinder Reply that the respondents failed to consider the application of the applicant no.1 for appointment on compassionate ground even after due enquiry was made. It is also pleaded in the Rejoinder Reply that the privilege passes was being issued in favour of the applicant when the due information was given by the W

deceased employee to the department only after fulfilling the declaration forms.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. Admittedly, the father of the applicant no.1 was working as Fitter under the respondent no.2 and expired in the year 2007. The case of the applicant was considered by the competent authority for appointment on compassionate grounds, but it was finally rejected by means of order dated 19.3.2009. A bare perusal of rejection order shows that the applicant no.1 was adopted daughter of the deceased employee while she was two years of age. She has been adopted by the deceased employee, but no adoption deed has been submitted by the applicant and as such the case of the applicant no.1 was not considered fit and accordingly it was rejected. The respondents have themselves annexed Master Circular wherein it has been categorically provided that when a widow of the deceased employee is unable to work, in that event son or daughter may be considered for appointment on compassionate ground after attaining the age of majority i.e. 18 years. As regards adopted son/daughter is concerned, they were required to submit valid adoption deed for consideration of his/her case for appointment on compassionate ground. Apart from this, railway passes and other benefits which were supposed to be given to the family of the deceased employee have been provided and the name of the applicant no.1 finds place in every such documents. Even the Card issued to the deceased employee, the name of the applicant no.1 finds place. Not only this, W

in Voter I.D. card issued by the Election Commission of India in favour of the applicant, there is name of the deceased employee as father of the applicant. These documents clearly show that the applicant is daughter of the deceased employee and as such denial of the respondents for appointment on compassionate ground appears to be not justified.

7. In view of the aforesaid, O.A. succeeds. The impugned order dated 19.3.2009 rejecting the claim of the applicant no.1 is hereby quashed. The respondents are directed to consider the case of the applicant no.1 for appointment on compassionate grounds within a period of six months from the date of receipt of a certified copy of this order. No costs.

W.R. Agarwal
(Navneet Kumar)
Member-J

Girish/-