

Central Administrative Tribunal, Lucknow Bench, Lucknow

O.A. No. 456/2010

This the 29th day of October, 2010

Hon'ble Shri Justice Alok Kumar Singh, Member (J)

Kuldeep son of late Shri Ratan Lal, resident of House No. 512/672, First Lane, Nishatganj, Lucknow.

Applicant

By Advocate: Sri Y.P. Singh

Versus

1. Union of India through the Principal Secretary, Ministry of railways, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow Division, Hazratganj, Lucknow.
3. Senior Divisional Accounts Officer, Northern Railway, Lucknow Division, Lucknow.
4. Senior Divisional Personnel Officer, Northern Railway, Lucknow Division, Lucknow.
5. Rati Pal, son of late Shri Ratan Lal, resident of 512/672, first lane, Nishatganj, Lucknow (presently posted as Gangman, Gate No. 169/13, Loni Katra, PWI, Nihalgarh, Northern Railway, Lucknow Division, Lucknow.

Respondents

By Advocate: Sri Azmal Khan

ORDER (ORAL)

By Hon'ble Shri Justice Alok Kumar Singh, Member (J)

Heard learned counsel for applicant Sri Y.P. Singh and learned counsel for respondents Sri Azmal Khan and perused the material on record.

2. Briefly stated the facts are that father of applicant died in the year 1991, leaving behind Smt. Janka, 3 sons and one daughter (married). The applicant being the eldest son, sought appointment on compassionate ground but he was not given appointment. Therefore, he filed O.A. No. 905/93, wherein besides seeking his appointment on compassionate ground, he also sought a direction to pay 1/4th share of Death Gratuity, Provident Fund and Group Insurance etc. of his father. His case was that Smt. Janka Dulari was not a legally married wife of his father late Ratan Lal. After hearing the matter at length, this

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Tribunal dismissed the O.A. In respect of his first relief, this Tribunal opined that from the perusal of Annexure C-1, it transpired that other two younger brothers of the applicant have been living with Smt. Janka and Rati Pal has been maintaining other two members. It was also found that compassionate appointment has been given to Ratipal, the younger brother of the applicant and it was also observed that in such a situation, providing appointment on compassionate ground to Rati Pal, instead of to Kuldeep, the applicant who refused to maintain all the dependents of the deceased employee cannot be assailed. Therefore, the first relief was declined. Similarly, in respect of second relief, it was observed that material status of Smt. Janak Dulari cannot be decided by this Tribunal and therefore, the shares of retrial benefits can also be decided by competent judicial forum and not by this Tribunal. This judgment dated 21.4.98 has been brought on record as Annexure No.10.

3. Learned counsel for the applicant submits that after this judgment, he filed civil Suit No. 547/1998 but during the pendency of suit No. 547 of 1998, Smt. Janak Dulari had died, as a result thereof the suit stood abated.

4. This O.A. in hand has been filed for the following reliefs:-

a) issue/ pass an order or direction to the respondents to take appropriate action in accordance with rules against Rati Pal (respondent No.5) for flouting and disregarding the terms of appointment including the undertaking given by him on oath at the time of appointment on compassionate ground to look after and maintain the other family members of late Shri Ratan Lal, who died while in service and in the alternative consider case of the applicant for appointment on a class IV post in the department.

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b) issue/ pass an order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

5. In the relief clause itself, it is mentioned that there are some rules and on the basis of those rules, relief for seeking direction to the respondents has been sought for taking appropriate action against Ratipal, respondent No. 5, for flouting and disregarding the terms of appointment including the undertaking given by him on oath at the time of appointment on compassionate ground to look after and maintain the other family members of late Sri Ratan Lal.

6. Firstly, neither any such rules has been brought on record nor shown before this Tribunal. Secondly, no terms of appointment have also been brought on record to show that any of the terms have been flouted. Thirdly, the alleged undertaking given on oath at the time of appointment is said to be in affidavit dated 6.1.93, which is enclosed with Annexure -17 whereas the appointment is of March/ ^{At 1993 At} 1999. Therefore, it cannot be construed that it was given at the time of appointment. Moreover, as rightly pointed out from the other side that there is no question of looking after the applicant who is elder brother and is aged about 46 years and having his own family.

7. Finally, therefore, in view of the above, this O.A. lacks merit and is accordingly dismissed without any order as to costs.


(Justice Alok Kumar Singh)
Member (J)

HLS/-