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Central Administrative Tribunal, Calcutta Bench, Calcutta

Original Application No. 96/2011

Reserved on 6.2.2015

Pronounced on 10-02-2015

Hon'ble Sri Navneet Kumar , Member (J)

Km. Preeti aged about 24 years d/o late Sri Pal, resident of village Sewakkeda, P.O. Akaheri, District- Unnao.

Applicant

By Advocate: Sri B.N. Shukla

Versus

1. Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, Northern Railway, Headquarter, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway Lucknow Division, Hazratganj, Lucknow.
4. Senior Divisional Personnel Officer, Northern Railway, Lucknow Division, Hazratganj, Lucknow.


Respondents

By Advocate: Sri B.B.Tripathi

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application is preferred by the applicant u/s 19 of the AT Act, with the following reliefs:-

- i) Set aside the order dated 12.5.2009 and 19.7.2010 passed by respondent No. 2 as communicated to the applicant vide letters dated 18.5.2009 and 30.7.2010, respectively as contained in Annexure No.A-1 and A-2 to this original application.
 - ii) issue appropriate order or direction to the respondents to appoint the applicant on a suitable post as per her educational qualification on compassionate ground on account of death of her father in harness.
 - iii) issue appropriate order or direction to the respondents to allow the family pension to the applicant and to make the payment thereof along with arrears.
 - iv) issue any other order or direction which may be deemed just and proper in the circumstances of the case.
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v) allow the Original application with costs.

2. The brief facts of the case are that the applicant is a daughter of Sri Pal, who was working with the respondents organization and died in the year 1988. At the time of death of ex-employee, the applicant was only 2-1/2 years of age as she was born on 12th April, 1986. When the applicant became major, she submitted an application for grant of appointment on compassionate ground. The same was rejected by the authorities on the ground that since the mother of the applicant re-married, therefore, applicant is not entitled for appointment on compassionate ground. The respondents have taken a reference of Railway Board Circular dated 18.4.1995 which is in regard to time limit for appointment on compassionate ground and the relaxation of time limit of five years is permissible under the extant instructions with certain conditions. It is indicated by the learned counsel for the applicant that the applicant's mother re-married, as such the applicant cannot be denied for grant of appointment on compassionate ground.

3. On behalf of the respondents, preliminary objection and counter reply is filed through which it is indicated that since the applicant's mother re-married after the death of her first husband, as such claim for compassionate appointment was rejected. Not only this, it is also pointed out by the learned counsel for the applicant that applicant was working as CPC Khalasi under the Section Engineer/ Yard, Lucknow and died in 1988 leaving behind his widow and a minor daughter. Admittedly, the wife of the ex-employee re-married as such, she has not submitted any application for compassionate appointment and only when the daughter of the ex-employee attained majority, she submitted the application for grant of compassionate appointment.

4. On behalf of the applicant, Rejoinder Reply is filed and through rejoinder reply, mostly the averments made in the O.A. are reiterated and denied the contents of the counter reply. Learned counsel for the applicant has categorically pointed out that the Railway Board Circular

dated 18.4.1995 is not applicable in the case of the applicant as the mother of the applicant has not submitted any application for grant of compassionate appointment and the applicant was minor at the time of death of her father and when she became major, she applied for grant of compassionate appointment in the year 2004. It is also indicated by the applicant that the mother of the applicant has received all retiral dues of ex-employee, as such the case of applicant for grant of compassionate appointment may be considered.

5. Heard the learned counsel for the parties and perused the records.

6. The applicant is the daughter of the ex-employee, the ex-employee died in the year 1988 and at the time of death of ex-employee, applicant was just 2-1/2 years of age as she was born on 12.4.1986. The mother of the applicant received all the retiral dues/terminal benefits and got married to another person namely Shankar Yadav, leaving behind the applicant with her maternal grand father and when in the year 2004, the applicant became major, she applied for grant of compassionate appointment in the year 2004 and when nothing was heard, she also represented to the authorities in the year 2007 and her matter was also placed before the Lok Adalat for Compassionate appointment and even thereafter, the case of the applicant has not been considered and finally the respondents have passed an order in the year 2009 indicating therein that in terms of Railway Board circular dated 18.4.1995, if the widow of the deceased employee re-marries, is not entitled for compassionate appointment.

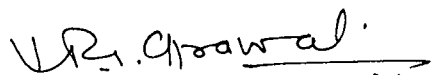
7. It is categorically indicated and pointed out by the learned counsel for the applicant that the mother of the applicant never applied for compassionate appointment. It was only the applicant who applied for appointment on compassionate ground and her application for grant of compassionate appointment was never considered by the authorities.

8. The bare reading of the Railway Board circular dated 18.4.1985 is also in regard to time limit of appointment on compassionate ground and the relaxation of time limit of five years by the General Manager and it is also pointed out that compassionate appointment, as permissible under the extant instructions can be approved by the G.M. even beyond the limit of five years subject to certain conditions. One of the condition is mentioned as "The widow of the deceased employee should not have re-married."

9. As observed by the Hon'ble Apex Court that the compassionate appointment cannot be claimed as a matter of right and it cannot be treated another source of recruitment but the respondents should have fair in considering the cases of compassionate appointment and when the applicant submitted her application for compassionate appointment in the year 2004, the respondents have not passed any order on her application.

10. As such, considering the submissions made by the learned counsel for the parties and also after perusal of record, I am of the view that a direction can be issued to the respondents to consider and decide the request of the applicant for grant of compassionate appointment in accordance with law and decision so taken be communicated to the applicant. This exercise may be done within a period of 4 months from the date the certified copy of this order is produced.

11. With the above observations, O.A. is disposed of. No order as to costs.


(Navneet Kumar)
Member (J)

HLS/-