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CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No.656/2005

Date of order : 28th October, 2005

C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman

Smt. Prabhawati Devi Applicant

Vrs.

Union of India & Ors. - Respondents

Counsel for the applicant : Shri Sudama Pandey,

Counsel for the respondents : Shri A.A.Khan, S.C.

ORDER (ORAL)

Justice P.K.Sinha, VC :-

Heard the learned counsel for the applicant and the ld. counsel for the respondents. The applicant is the wife of the deceased employee who was working as Casual Labour under Temporary Status, and who died in harness on 14.12.1993, whereafter the applicant applied for her engagement on compassionate ground which did not bring any positive result. She travelled to this Tribunal in O.A. No. 626 of 2000, wherein the Tribunal directed the respondents to reconsider the request of the applicant with



reference to the law and instructions on the subject, particularly the circulars issued by the Railway Board from time to time and dispose of the matter by a reasoned and speaking order. That speaking order dated 4.2.2003 was recorded by the D.R.M., E.C.Railway, Samastipur. Para 2 of the speaking order is the ground why the applicant could not be considered for compassionate appointment which runs as follows :-

"I have gone through all documents related with the case and the relevant Rules. Master Circular on Appointment on Compassionate Grounds issued by Railway Board, vide para – 11, directs that the request for appointment on compassionate ground to widow of 'Casual Labour with temporary status' can be considered provided 'Casual labour with temporary status' dies due to accident while on duty. In case of applicant's husband late Vindhyaachal, it is observed that he had not died due to accident."

2. Not disputing the aforesaid direction of the Railway Board in their letter no. E[NG]II – 84/CL/23 dated 4.5.1984, Shri Sudama Pandey, the ld. counsel appearing for the applicant submitted that what the D.R.M. had not considered was the Board's letter No. E[NG]II/84/CL/28 dated 31.12.1986, 6.12.1988 and 6.12.1990. The learned counsel for the applicant places for perusal of the Tribunal, the gist of the aforesaid letter as contained at page 24 of the Master Circular on Casual Labour Compilation of Govt. of India, Ministry of Railways, Railway Board. This runs as follows :-

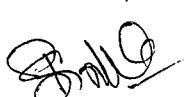


"11.11 If a casual labour dies, due to accident while on duty, the General Manager may consider requests from his [deceased C.L.] ward from engagement as a Casual Labour or as a Substitute, provided the casual labour concerned is eligible for compensation under the Workmen's Compensation Act, 1923. The power in this behalf should be exercised by the G.M. Personally and should not be delegated lower down.

[Ref. Board's letter No. E[NG]II -84/CL/23 dt.4.5.84]

The General Manager may also exercise his personal discretionary power in the case of death of a Casual Labour with temporary status dying in harness i.e, during his employment with the Railways, other than the cases of death due to accident, for engaging a suitable and eligible wards the deceased. This engagement will be as a Casual labour or as a Substitute only. The General Manager is required to exercise the powers personally in this behalf in a judicious manner taking into account the features of the case i.e., whether they constitute extreme hardship meriting special consideration."

3. The argument is that, keeping in view the financial crisis the applicant [a widow] has been facing, the D.R.M. to whom the power of G.M. in this regard stands delegated, should have also exercised his discretion, this being not a case in which the husband of the applicant had died in any accident.
4. Shri Pandey, ld. counsel for the applicant asserts ^{that} this circular as shown by him, stands ^{good} as of today. The ld. counsel also submits that exercising that power, similarly situated other wards of the deceased had been granted engagement on the basis of compassion.
5. The ld. counsel for the respondents when confronted with the circular



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quoted by the ld. counsel for the applicant submits that the D.R.M. is to exercise this power, this or that way.

6. In that view of the matter, this application is disposed of by directing the D.R.M., E.C. Railway, Samastipur to record an order as envisaged in the afore quoted circular dated 31.12.1986 and other dates exercising his discretion in the manner as provided in the aforesaid circular by recording speaking order within three months of the receipt of a copy of this order. The applicant will also submit a copy of the certified copy of this order with a copy of the application with annexures to the aforesaid official within fifteen days of the receipt of certified copy of this order.

7. With the aforesaid directions, this application disposed of.



[P.K.Sinha]
Vice-Chairman

mps.