

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 739 of 2005

Date of order : 14.07.2006

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

1. Uma Devi, W/o Late Bhim Mandal, Ex.T. No. 23157 of B.R.S. Workshop, Jamalpur, resident of Mohalla, Nayagaon, Baddipara, P.O. Jamalpur, District – Munger.
2. Kumari Reena , D/o Late Bhim Mandal, resident of Mohalla Nayagaon, P.O. Jamalpur, District – Munger.

....Applicants

By Advocate : Shri Krishna Prasad

Vs.

1. The Union of India through the General Manager, E. Railway, Fairlie Place, 17, Netaji Subhash Road, Kolkata.
2. General Manager, Eastern Railway, Kolkata.
3. Chief Works Manager, Eastern Railway, Jamalpur Workshop, Munger.
4. Deputy Chief Personnel Officer, Eastern Railway, Jamalpur Workshop, Munger.

....Respondents


By Advocate : Shri Mukund Jee

O R D E R (Oral)

By Sadhna Srivastava, M (J):-

By means of this application the applicant No. 2 claims appointment on compassionate ground.

2. In the present OA, a very short question is



involved, i.e., whether a daughter of second wife is entitled for compassionate appointment.

3. Now coming to the facts of the present case, the applicant No. 1 is the widow of late Bhim Mandal who died in harness on 2.2.1997, while working as Technician Grade I in Jamalpur. After the death of her husband, the applicant No. 1 filed an application for grant of family pension and compassionate appointment ^{for} applicant No. 2. She filed a succession case which was decided and on the basis of succession certificate, the applicant No. 1 was paid Rs. 2,95,370/- as settlement dues ^{by the respondents.} She had also filed the OA 572 of 2004 for grant of family pension, and on the direction of this Tribunal her case regarding family pension was settled and she has been getting family pension. Her request regarding grant of compassionate appointment to applicant No. 2 was rejected on 10.9.2005 merely on the ground that the applicant No. 1 is the second wife and the deceased employee had contracted second marriage during the life time of first wife and, therefore, neither she nor her children are entitled for compassionate appointment.



4. It is alleged in the OA that the first wife of the deceased employee had got remarried with one Shri Manu Mandal and she has not put any claim for compassionate appointment as well as family pension before the department.

5. The Patna High Court, in the case reported in 2002 PLJR (3) page 146, the UOI vs. CAT and others, has held that where the pensionary benefits having been divided among the two wives of the deceased employee, there was no reason to refuse appointment on the ground of being the son of second wife when first wife has also supported it and there is no rival claimant.

6. Admittedly, the post retirement benefit and family pension has been paid to the applicant ^{No 1.} When the matter came for appointment of her daughter, the railway administration has rejected the same. Having granted the pensionary benefits to the applicant, the Tribunal has failed to understand where is the difficulty in considering the case of the applicant No. 2 for grant of compassionate appointment. ^{claimant}
The pleadings also show that there is no other rival ^{claimant} for claiming of compassionate appointment.

AB

7. The learned counsel for the applicant has placed reliance on the judgment reported in AIR 2000 SC page 735, Rameshwari Devi vs. State of Bihar and Others. The Hon'ble Apex Court has held that the children born to deceased Hindu employee from the second wife taken during the subsistence of first marriage are entitled to share in family pension and gratuity.

8. In view of the above cited case law, the applicant No. 2 is entitled for consideration for grant of compassionate appointment. The respondents are hereby directed to consider the case of the applicant for appointment on compassionate ground, within six months from the date of receipt of a copy of this order.

9. The OA stands disposed of, accordingly. No order as to the costs.


[Sadhna Srivastava] M [J]

/cbs/