

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

OA 379/2001

MUMBAI, THIS THE 12TH DAY OF JUNE, 2001

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri Ashwini Kumar Ashok Shere
S/o Late Ashok Baburao Shere
age about 26 yrs.
residing at C/o M.S.Kagnikar
Room No. 4, Kamod Park
Kamodnagar Mumbai -Agra Road
Nasik - 422 009.

...Applicant

(By Advocate Shri S.S.Karkera)

V E R S U S

1. Union of India :
through the General Manager
Central Railway, C.S.T.
Mumbai - 400 001.
2. The Divisional Railway Manager
Central Railway, Bhusawal - 425 201.
3. Smt. Shashikala Ashok Shere
Aged about 30 yrs.
Residing at Railway Quarters
Nasik Road, RBI Room No. D/139
NASIK - 422 101.

(By Advocate Shri Suresh Kumar,
and Ms. Gauri Jadhav, for R-3)

O R D E R (ORAL)

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

OA 379/2001 has been filed by Shri Ashwini Kumar Ashok Shere, S/o Late Shri Ashok Baburao Shere seeking compassionate appointment following the demise of his father.

2. The employee passed away on 23-1-2001 and the present application is confined only to the claim for compassionate appointment. It is seen that the representation made by the applicant to the respondents had been replied by them on 22-3-2001, stating that the

applicant's step mother Smt. Shashikala has also requested for appointment and that the applicant shall approach the competent Court by making rival party and obtain succession certificate for the action and that only receipt of such a letter, further action will be taken. Shri Suresh Kumar, learned counsel for the respondents states that as per their records that Smt. Shashikala and her children are shown as dependents of the deceased employee and that no evidence was available, showing the applicant as the dependent of the deceased and as such entitled for the compassionate appointment. Shri S.S.Karkera, learned counsel for the applicant firmly urges that the second wife has no claim for compassionate appointment in terms of the Supplementary Circular No.5 to M.C.No. 16 of the respondents' organisation and, therefore, his claim should have been considered and orders passed instead of his being asked to produce a succession certificate for examining the case.

3. I have considered the matter and heard two claimants for appointment on compassionate grounds following the demise of Shri Ashwini Kumar i.e. Shri Ashok Shere i.e. the applicant and respondent No.3 i.e. Smt. Shashikala. Both of them claim that they are the dependents of the deceased employee and thus entitled for the compassionate appointment. According to Shri Karkera, learned counsel, the documents relied upon by the respondents, are service records relating to 7-6-94 while the applicant's mother was married to the deceased employee as far back as in 1972. Obviously, therefore, there is a dispute on succession following the death of the deceased Govt. employee and this Tribunal cannot take upon itself the task of adjudicating upon the

counter claims of the two contending parties as the jurisdiction lies elsewhere. And it is for the Administration to consider the case of the rival claimants on the basis of the documents, which are brought on record after obtaining the order from the competent Court. The applicant shall obtain the necessary order from the competent Court and produce before the authorities to consider his case. Till such time the issue as to who exactly is the claimant entitled to get compassionate appointment in the place of deceased employee is decided upon on the basis of the records and orders of the competent Court, No orders as to compassionate appointment can issue.

4. In the above view of the matter, I dispose of this application with direction to the respondents to examine on the matter after obtaining details from all the records as well as from the Competent Court's order as to who exactly among the claimants is entitled for consideration for compassionate appointment and take the decision accordingly.

(GOVINDAN S. TAMPI)

MEMBER (A)

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