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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA No.921/89.

Dt. of Order: 10-10-91

B.Lakshmi

....Applicant

Vs.

1. The Divisional Railway Manager,
S.C.Railway, Vijayawada.

2. General Manager, SC Railway,
Railnilayam, Secunderabad.

....Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.R.Devraj, SC for Rlys

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CORAM:

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI S.SANTHANAKRISHNAN : MEMBER (J)

(Order of the Division Bench delivered by
Hon'ble Shri S.Santhanakrishnan, Member (J)).

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The applicant has come forward with this application under section 19 of the Administrative Tribunals Act, 1985, requiring the respondents to provide her a Class-IV job on compassionate grounds. Respondents filed ^a reply rejecting the contentions of the applicant. The applicant also filed a rejoinder.

Heard counsel for the applicant as well as the Respondents. Records are perused.

There is no dispute that one Sri D.Prasada Rao was working as Head Clerk ^{under} the Respondents and that he

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118

died on 18-6-85 while he was in service. The applicant claims that she is ^{the} legally wedded wife of Sri Prasada Rao and hence she is entitled to claim appointment on compassionate grounds. The fact that Sri Prasada Rao died while in service and that the applicant is without any means is not disputed in the counter. The only objection raised in the counter is that the applicant is not the legally-wedded wife of Shri Prasada Rao.

It is ~~alleged~~ in the application that late Sri Prasada Rao married one Mrs.G.Sudhashiniamma but she deserted him and married one Sri Krupadhana in the year 1964. The applicant claims that she married Sri Prasada Rao after the above re-marriage under the christian marriage system on 25-5-71 before the Registrar of marriages of Vijaya Wada. Annexure A-7 is the certificate to prove the same. A perusal of the Annexure A-7 shows that this certificate ^{was} issued by the Registrar of Marriages ~~from~~ the Marriages Registrar in the concerned volume shown in the certificate. Hence there is no force in the contention of the Respondents that the same is not the proforma maintained by the Church. Annexure A-7 shows that the marriage had taken place as per the custom in the community.

Thereafter, when the Respondents refused to pay the amounts due to Sri Prasada Rao to the applicant, she filed O.P.62/85 and obtained a succession certificate from the Civil Court. Annexure A-8 is the copy of the certificate produced by the applicant. The applicant was described as wife of Sri Prasada Rao and the court found that she is a

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legal heir of late Sri Prasada Rao. The objection of the Respondents that this is bad for mis-joinder of parties is without any basis as certificate was issued as per the provisions of Succession Act after due publication.

Thereafter Smt. Sudhashiniamma filed WP 1337/86 before the High Court of Andhra Pradesh, Hyderabad and required the Respondents not to pay any amount of Sri Prasada Rao. The applicant produced Annexure A-9, a copy of the Writ Petition, wherein the applicant and Smt. Subhashiniamma entered into a compromise where by Smt. Subhashiniamma agreed that the applicant is entitled to all other benefits of pension accumulated by Sri Prasada Rao and also employment on compassionate grounds. This clearly shows that the contention of the applicant that because Smt. Subhashiniamma married to Sri Krupadana, she gave up her rights except getting some amount by way of compromise is true. Even if Smt. Subhashiniamma is entitled to any right to claim employment under the Respondents on compassionate grounds, she has lost that right in view of the above said compromise.

The Respondents further contend that Sri Prasadhar Rao failed to apply for any permission for the marriage with the applicant under section 21 of Railway Servants conduct Rules. Sri Prasada Rao will have to apply for the permission under section 21 of the Railway Servants conduct Rules if his marriage with Smt. Subhashiniamma was subsisting on the date when he married the applicant. As the applicant claims that Smt. Subhashiniamma was already re-married in the year 1964,

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Rule 21 of Railway Servants Conduct Rules is not applicable to the facts of the present case. Even taking for granted that granted/it is applicable, if Sri Prasada Rao failed to obtain permission for his marriage with the applicant it will only be a mis conduct for which action can be taken against him. It will not show that the applicant is not ^{the} legally wedded wife of ^{late} Sri Prasada Rao. Though the Respondents placed some reliance on ^a letter dt. 19-8-1987 no such copy was enclosed to the counter. Hence we are unable to place any reliance that on/letter.

The applicant has established that Sri Prasada Rao died while in service and that she is ^{the} legally wedded wife of late Sri Prasada Rao. Even Smt. Subhashiniamma agreed as per the compromise that the applicant is entitled to employment on compassionate grounds. Further when the Respondents themselves sanctioned pensionary benefits to the applicant admitting that she is ^{the} legal heir of late Sri Prasadha Rao, they cannot now round and say ^{the} that she is ^{the} legally wedded wife for pension and other benefits but not to claim employment on compassionate grounds. Hence we find no force in the contention of the Respondents that the applicant is not entitled to claim employment on compassionate grounds. Annexures I to IV are the representations made by the applicant and the orders passed by the Respondents.

In view of the above discussion, the application has got to be allowed and the applicant is entitled to claim employ-

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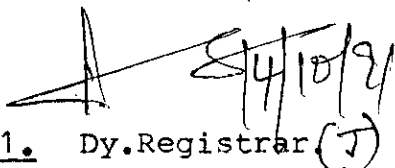
ment on compassionate grounds and the Respondents are hereby directed to consider her claim on compassionate grounds for Class-IV job on merits within three months from the date of receipt of this order. We however make no order as to costs.



(R. BALASUBRAMANIAN)
Member (A)



(S. SANTHANAKRISHNAN)
Member (J)

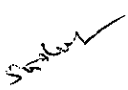

Dated: 10th October, 1991. Dy. Registrar (J)

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Copy to:

1. The Divisional Railway Manager,
South Central Railway,
Vijayawada.
2. General Manager,
South Central Railway,
Railnilayam,
Secunderabad.
3. One copy to Shri. G.V. Subba Rao, H.No.1-1-220/33.
Chikkadpally, Hyderabad.
4. One copy to Shri. N.R. Devraj, Addl. CGSC. C.A.T. Hydbad.
5. One spare copy.

RSM/-



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TYPED BY
CHECKED BY

O A - 92/89
COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

M. M. S. Sankaran Krishnam M(J)

DATED: 10/10/1991

ORDER / JUDGMENT:



M.A./R.A./C.A. No.

in

O.A.No. 92/89

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.