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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT JAIPUR BENCH:  
JAIPUR.

OA NO. 95/97

Date of order: 12.3.1997

Smt. Kanta Gupta D/o Shri Ram Kishan Gupta  
(deceased), resident of House No.16, Mohan  
Talkies Road, New Sabzi Mandi, Kota.

: Applicant

Versus

1. Union of India through General Manager,  
Western Railway, Churchgate, Bombay-20.
2. Divisional Railway Manager, Western Railway,  
Kota Division, Kota.

: Respondents

Mr. C.R.Premi, learned counsel for the applicant

CORAM:

HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN  
HON'BLE SHRI C.P.SHARMA, MEMBER (ADMINISTRATIVE)

ORDER

(PER HON'BLE SHRI C.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunal's Act, 1985, Smt. Kanta Gupta has prayed that directions may be issued to the respondents to appoint the applicant to a suitable post as per her qualifications on compassionate ground, because her father died while in service with the Railways. She has prayed that no discrimination should be made against her on the ground of her sex by saying that she is the married daughter of the deceased. Such discrimination would be violative of Articles 14, 15 & 16 of the Constitution.

2. The brief facts of the case are that the father of the applicant Shri Ram Kishan Gupta was

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employed as a Fitter in the Loco shed at Kota in the Western Railway. He died on 22.12.1989 while in service, before his retirement. The applicant is the only child of her parent. The applicant's mother expired when she was seven years of age. Her father did not re-marry and brought up the applicant. The applicant was married on 2.12.1988. The applicant's husband continued to stay with the deceased Railway servant during the life time of the deceased. The applicant submitted an application to respondent No.2, the Divisional Railway Manager, Western Railway, Kota for grant of appointment to her on compassionate grounds on 16.2.1990 (Annex.A-3). She was asked to submit Succession Certificate which was submitted to the authorities. Vide communication dated 14.12.1993 (Annex.A-5) grant of appointment to the applicant on compassionate ground was denied by stating that the deceased had not left behind anybody to be looked after. The applicant submitted her case before the General Manager, Western Railway, but she has received no response. The case of the applicant is that she and her husband were wholly dependant on the deceased Railway servant, her father and the applicant's family is in a financial crises and, therefore, compassionate appointment deserves to be given to the applicant as she is the only child of the deceased. According to the letter dated 3.2.1981 issued by the Railway Board, referred to by the applicant at pages 6 & 7 of the O<sup>2</sup>, it has been stated that there is no bar to appointment of a married daughter on compassionate ground provided the General Manager is satisfied that the married daughter will be the bread earner of the

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family of the deceased. The applicant has also quoted a private publication to say that married daughter is the member of family for the purpose of pension and gratuity payable to the family of the deceased Railway servant. She has also cited certain judgments in support of her plea that there should be no discrimination against her on the ground of her sex and she is entitled to appointment on compassionate ground for the maintenance of the family of the deceased which includes the applicant and her husband.

3. During the arguments, the learned counsel for the applicant stated that the family of the applicant consists of herself, her husband and two children. Since she and her husband were dependant on the deceased Railway servant during his life time, she and her husband and children continued to be the members of the family of the deceased and, therefore, for their maintenance appointment on compassionate ground is required to be given to the applicant. The learned counsel for the applicant <sup>has</sup> further stated that the family of the applicant is in a real financial crises because her husband earns a meagre amount of Rs. 300/- per month by doing the job of a Carrier of goods etc.

4. We have heard the learned counsel for the applicant and have perused the material on record.

5. The applicant has stated that her mother had pre-deceased her father. After the death of the deceased Railway servant, <sup>i.e</sup> the father of the applicant, in our <sub>r</sub> view no one was left in the family of the deceased. The reason is that during the life time of the deceased

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the applicant had got married and she now has children of her own. Compassionate appointment is granted to a Son or Daughter so that he or she can maintain the family of the deceased. When there is no person left in the family of the deceased, there is no question of a compassionate appointment being granted for maintenance of any such family. The question of discrimination on the basis of denial of appointment on compassionate ground to a married daughter would arise only where there is a family left behind by the deceased and the authorities refused to grant appointment to the applicant for maintenance of such family on the ground that she is a married daughter now. That is not the situation in this case. Denial of appointment to the applicant on compassionate ground is not on the ground that she is a married daughter but on the ground that the deceased has left behind no family to be maintained. The argument that the applicant, her husband and her two children constitute the family of the deceased is not acceptable. The applicant, her husband and their two children now belong to the family of the husband of the applicant or to the family of the applicant and not to the family of the deceased. We have carefully gone <sup>through</sup> other averments in the OA and also the references made to the judgments, but none of these suggest that an appointment on compassionate ground should be given to a married daughter when there is no one left in the family of her deceased father. The reference to the definition of the family for the purpose of pension and gratuity has also no relevance

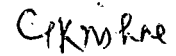
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to the present case.

6. In the circumstances, we find no merit in this application. It is dismissed at the stage of admission.

  
(O.P. SHARMA)  
MEMBER (A)

  
( GOPAL KRISHNA )  
VICE CHAIRMAN