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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 176 of 2004

Jabalpur, this the 23rd day of September, 2004

Hon'ble Mr. Madan Mohan, Judicial Member

1. Phooljharia Bai W/o Late Shri Latora Balwant
Aged about 53 years R/o Matwar, Post Office
Bandhi Tehsil Bahoriband, District Katni(MP)

2. Radhika Prasad S/o Late Shri Latora
Balwanta aged 22 years resident of
Matwara, Post Office Bandhi
Tehsil Bahoriband District Katni
(M.P.)

APPLICANTS

(By Advocate - Smt.) Nirmala Mayak)

VERSUS

1. The Union of India through The
Secretary Ministry of Railway
New Delhi.

2. The General Manager West Central
Railway Jabalpur(M.P.)

3. The Divisional Railway Manager
Jabalpur Division West Central
Railway Jabalpur(M.P.)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

ORDER

By filing this OA, the applicants have sought the following main relief :-

" (1) That respondents be directed to appoint the applicant No.2 in the Department on compassionate ground."

2. The brief facts of the case are that the applicant No.1 is the widow and the applicant No.2 is the son of deceased Government servant(late Latora Balwant) who died in a rail accident on 17.1.83 and was an employee in the Central Railway as Keyman(Chabidar). At that time the applicant No.2 was minor. On attaining the age of majority the applicant No.1 has submitted an application dated 3.6.96 for appointment on compassionate grounds in favour of the applicant No.2. But it was rejected vide order dated 20.3.1997(Annexure-A-4). Aggrieved by this the applicants have filed OA No.873/97 which also rejected by this Tribunal for want of prosecution

and thereafter the applicants have filed MA No 1647/03 while deciding the aforesaid MA, the applicants were granted liberty to file fresh OA. Hence, this OA.

3. Heard the learned counsel for the parties.

4. It is argued on behalf of the applicants that at the time of death of Government employee, the applicant no.2 was minor and on attaining the age of majority, the applicant no.1 has moved an application for appointment on compassionate grounds in favour of applicant no.2, which was rejected by the respondents vide order dated 20.3.97(Annexure-A-4). The learned counsel for the applicants further stated that the impugned order in this OA, which was passed by the respondents is a non-speaking order and without assigning any reason therein. The learned counsel for the applicant has also stated that the respondents have rejected the claim of the applicant while the applicants are facing acute financial crises.

4. In reply the learned counsel for the respondents argued that the deceased Government employee left behind him, Smt. Phooljharia Bai first wife(applicant No.1), Shri Radhika Prasad(applicant no.2) is the son of second wife Smt. Bagwati Bai, Nathoo adopted son and two married daughter. The learned counsel for the respondents further argued that the applicant No.2 Shri Radhika Prasad is the son of second wife Smt. Bagwati Bai in terms of Railway Boards letter dated 2.1.92(Annexure-R-2) in which it is clarified that the case of the Railway employee dying in harness by leaving behind more than one widow along with children born from the second wife, while settlement dues may be shared by both the widows, appointment on compassionate grounds to the second widow and her children's are not to be considered unless the administration has permitted the second marriage, in special circumstances permission and taking into the personal law etc. No such circumstances

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were shown by the applicants. Hence, the applicants are not entitled for any relief.

5. After hearing the learned counsel for the parties and careful perusing the record, I find that the respondents have mentioned in para 5.2 of the reply that Shri Radhika Prasad(applicant no.2) is the son of Smt. Bhagwati Bai(second wife) this fact was not controverted by the applicants. I perused the Railway Board's letter dated 2.1.92 by which the appointment on compassionate grounds to the second widow and her children's are not to be considered unless the administration has permitted the second marriage in special circumstances taking in to the personal law etc. The applicant have not filed any document regarding such permission about second marriage. The learned counsel for the respondents has produced one photo copy of the document which shows that the deceased Government employee has only one wife Smt. Phuljharia Bai and Nathoo adopted son and in this document the name of second wife Smt. Bhagwati Bai is not mentioned. It shows that there was no second marriage. The aforesaid document is placed on record.

5. In view of the aforesaid discussion and also the document shows by the learned counsel for the respondents, the OA is bereft of merit. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

फृचकन सं. ओ/व्या.....जबलपुर, दि.....

प्रतिलिपि अवैधितः—

- (1) सहिव, उच्च न्यायालय तार एसोसिएशन, जबलपुर
- (2) आदेक श्री/श्रीमती/व्यु.....के काउंसल
- (3) प्रत्यार्थी श्री/श्रीमती/व्यु.....के काउंसल
- (4) व्यापाल, केप.अ., जबलपुर न्यायालय
सम्बन्ध एवं आवश्यक काउंसल हेतु

Nirmala Mehta
MN Banerjee

उपराजस्त्र

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