

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR
Original Application No 526 of 2004

Gwalior, this the 5th day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Rahul Kumar Meshram,
S/o Sunandan Meshra,
Aged about 30 years,
Occupation-unemployed,
R/o Behind RPF Office,
Near Mal Godam, Raipur,
Tahsil & Dist. Raipur(C.G)

Applicant

(By Advocate – Shri N.L.Soni)

V E R S U S

1. Union of India through
Through General Manager,
South East Central Railway,
Bilaspur(C.G.).

2. Sr. Divisional Personnel Officer,
South East Central Railway,
Bilaspur(C.G.)

Respondents

(By Advocate – Shri S.P. Sinha)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“7.1 That the order dated 09.01.2003 passed by the non-applicant No.2 may kindly be quashed.

7.2 That the non-applicants may kindly be directed to give compassionate appointment to the present Applicant with immediate effect.”

2. The brief facts of the case are that father of the applicant late Sunandan Meshram was working as Switch Man under the



respondents. He has two wives first is Smt Meera Bai and second is Smt. Malti Bai, who is younger sister of first wife. Out of second marriage four children were born, three daughters and one son. He died on 24.12.1990 in harness. After the death of Government servant, Shri Sunandan, equal shares of retiral benefits were granted to the aforesaid wives of the deceased Govt. servant. In the year 1995, Smt. Malti Meshram i.e. second wife of the deceased Govt. servant applied for compassionate appointment before the Railway Authorities and she was directed to appear before the interview board vide letter dated 14.3.1995(Annexure-A-1). She attended the said interview but she was informed vide letter dated 2.8.1995(Annexure-A-2) that the second wife or her children are not entitled for compassionate appointment. Thereafter another application was also moved by the first wife of the deceased Govt. servant for compassionate appointment in favour of the applicant. The applicant had also submitted a joint affidavit of both the wives of deceased Govt. servant Annexure A-6 in which it was categorically stated that no body had any objection ^{is} if the present applicant/ getting the compassionate appointment. However, the respondents have intimated vide order dated 9.1.2003 to the applicant that the application for compassionate appointment has been rejected by the Head Office.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicant argued that father of the applicant late Sunanandan Meshram was issue less and with the consent of first wife he married with the mother of the applicant. He died on 24.12.1990 while in service. The mother of the applicant applied for compassionate appointment in favour of the applicant but it was informed to her that the second wife or her children are not entitled for compassionate appointment. This order is not in accordance with law. The learned counsel for applicant argued that at

the most, the mother of the applicant i.e. second wife of the deceased Govt. servant may not be legally entitled but the applicant is legally entitled. Thereafter another application was moved before the Railway Authority by the first wife of the deceased Govt. servant in favour of the applicant but, it was also rejected by the respondents vide order dated 9.1.2003(Annexure-A-8). The family of the applicant is facing acute financial crisis and the aforesaid impugned order passed by the respondents is not in accordance with law. Hence, both the impugned orders are liable to be ^{and set aside} ~~quashed~~ and the OA deserves to be allowed.

5. In reply the learned counsel for the respondents argued that it is an admitted fact that Smt. Meera Bai was his legal married wife under Hindu Marriage Act. The consent if any given by the first wife does not make the second marriage valid. The status of alleged second wife remains as concubine. The deceased Government servant did not obtain the permission of the department for second marriage and also he never informed the department about the alleged second marriage. It is only after the death of the Government servant the facts came to light when the two ladies claimed the retrial benefits. Both were directed to obtain succession certificate. The court concerned held that both the ladies are entitled to receive the retrial benefits in equal proportion. The learned counsel for the respondents further argued that according to letter dated 20.1.92 (Annexure-R-1) the second wife and her children are not legally entitled for compassionate appointment. Hence, the request for compassionate was not considered and it was rejected. The respondents have neither committed any irregularity or illegality while passing the impugned orders.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the second wife Smt. Malti Bai applied for compassionate appointment before the Railway Authority.

As the deceased Govt. servant was issue less ^{from} with his first wife, ~~He~~ he married with the sister of his first wife with the consent and after his wedlock four children were born. He died on 24.12.1990. Both the ladies have claimed the retiral benefits, which was not granted to them and both were directed to get the succession certificate from the competent court. The competent court passed the order and thereby both the ladies i.e. first wife and second wife were held entitled to get equal shares ⁱⁿ the retiral benefits of deceased Govt. ^{Servant.}

In the year 1995 Smt. Malti Meshram moved an application for compassionate appointment before the Railway Authority and she was directed to appear before the Interview Board. She attended the interview but vide letter dated 2.8.1995 the respondents informed her that as per the rules the second wife or her children are not entitled for compassionate appointment. Thereafter, the first wife of the deceased Government servant, Smt. Meera Meshram also moved an application for granting the compassionate appointment in favour of the applicant. However, the respondents have rejected the claim of the applicant vide order dated 9.1.2003 (Annexure-A-8). We have perused Annexure-R-1 dated 20.1.92 in which it is mentioned that "...the appointments on compassionate grounds to the second widow and her children are not to be considered unless the administration has permitted the second marriage, in special circumstances, taking into account the personal law etc." According to aforesaid law the second wife may not be entitled for compassionate appointment but the applicant being son of the deceased Govt. servant ^{is entitled.} We have perused the impugned orders dated 2.8.95 and 9.1.2003. It is made clear that the second wife Smt. Malti Meshram is not entitled for compassionate appointment in favour of herself, but the present applicant is legally entitled to claim for compassionate appointment and his claim cannot be rejected merely on the ground that he is son of the second wife of the deceased Govt. servant. The respondents should have considered the facts and circumstances regarding the contentions of the applicant which they have not considered in passing

the impugned orders. Hence, the impugned orders dated 2.8.95 and 9.1.2003 are quashed and set aside. The respondents are directed to reconsider the case of the applicant for compassionate appointment within a period of three months from the date of receipt of a copy of this order. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठकन सं ओ/ब्या..... जयलपुर, दि.....
प्रतिनिधि कानून विभाग--

(1) सचिव, जयलपुर जेल, जयलपुर

(2) आवेदक श्री/श्रीमती/श्री..... के काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/श्री..... के काउंसल

(4) मध्यपाल, जयलपुर जेल, जयलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

X.L. Saini Adv. BSP

S.P. Singh Adv. D.D.S.

15-4-05

skm

Filed
on
18.4.05