CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR, JABALPUR

Original Application No. 666 of 2004
Original Application No. 667 of 2004

Jabalpur, this the 20th day of January, 2005

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

1. **Original Application No. 666 of 2004** -

1. Smt. Bhagwati Bai, Wd/o. Shri Abhaychand Premilal, aged about 48 years, resident of Village Raishalpur, Tahsil Itarsi, District Hoshangabad (MP).

2. Shiv Kumar, son of Shri Abhaychand Premilal, Aged about 24 years, r/o. Village Rashalpur, Tahsil Itarsi, District Hoshangabad. .... Applicants

2. **Original Application No. 667 of 2004** -

Smt. Bhagwati Bai, Wd/o. Shri Abhaychand Premilal, aged about 48 years, resident of Village Raishalpur, Tahsil Itarsi, District Hoshangabad (MP). .... Applicant

(By Advocate – None for the applicants in both the OAs)

Versus

1. Union of India, through its Secretary, Ministry of Railway, Rail Bhawan, New Delhi.

2. General Manager, Central Railway, CSTM, Mumbai, (MH).

3. Divisional Manager, Central Railway, Bhusawal (MH). .... Respondents in all the OAs

(By Advocate – Shri S.P. Sinha in both the OAs)

O R D E R (Oral)

By Madan Mohan, Judicial Member –

As the issue involved in the aforementioned cases is common and the facts and grounds raised are identical, for the sake of convenience these Original Applications are being disposed of by this Common order.

2. By filing these Original Applications the applicants have claimed the following main reliefs :

OA No. 666/2004 -

"(1) the respondents be directed to produce the entire record of the appointment of Abhaychand Premilal and Shankerlal Kioshorilal,

(2) the respondents be also directed to grant compassionate appointment to either of the applicants.

OA No. 667/2004 -

(3) the respondents be directed to produce the entire record of the appointment of Abhaychand Premilal and Shankerlal Kishorilal,

(4) the respondents be also directed to grant pensionary/death-cum-retirement benefit to the applicant."

3. The brief facts of the cases are that the husband of the applicant No. 1 and father of the applciant No. 2 Shri Abhaychand Premilal entered in the services of C&W Itarsi Station under Bhusawal Division as Khalasi. Unfortunately he died in harness on 28.2.1982. The applicant No. 1 submitted an application for grant of compassionate appointment and for grant of pensionary benefits from time to time. But when her case was not considered another application dated 20.12.1989 was also moved for appointment on compassionate ground. But her case was again not considered. In one another case, on the death of one Shankerlal son of Shri Kishorilal who was also in the same panel that of the deceased employee on 15.7.1981, the Railway administration sanctioned the pension to the widow of said Shankerlal and also provided compassionate

appointment. The applicant No. 1 again submitted application dated 2.5.1990, wherein she has mentioned the particulars of the employees who were though juniors to her husband but were regularized during the life time of late Abhaychand Premilal and some of them have died during the service period and the Railway administration provided pensionary benefits and compassionate appointment to their dependants. The respondents informed the applicant No. 1 that the name of Shri Shankerlal son of Shri Kishorilal was at serial No. 2, whereas the name of her husband was at serial No. 1004 and therefore the department has provided pensionary benefits and compassionate appointment to the dependants of Shri Shankerlal as he was treated as substitute of C&W Khalasi. Thus, the respondents have not considered the case of the applicants properly. Hence, these Original Applications are filed.

4. None is present for the applicants. We proceed to dispose of these Original Applications by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and carefully perused the pleadings and records.

5. It is argued on behalf of the respondents that the deceased employee Abhaya Chand Premilal was engaged as a substitute on regular scale of pay against temporary vacancies as Khalasi in C&W Deptt. The substitutes are entitled to all privileges of temporary Railway servants while in service, but are not treated as Railway Servants for any other purposes. Thus there is no question to give appointment on compassionate grounds. The appointment on compassionate ground is not a matter of right. It is made for providing immediate financial assistance to the family of the deceased employee so that they should not feel any acute financial crises. Now in this case a period of about 23 years has passed and such type of belated claim are not accepted. The case of the applicants and that of Shri Shankerlal Kishorilal are not at all similar as the deceased employee in these cases i.e. Abhaychand Premilal was never regularized

in services and the present applicants i.e. the dependants of Abhaychand Premilal have not sought any relief for regularization of the services of the deceased employee. They cannot get any benefit from the cases of Shankerlal Kishorilal or of any other juniors. Our attention is drawn towards the letter dated 22.1.1990 (Annexure A-5 in OA No. 666/2004) in which it was informed by the respondents to the applicant No. 1 Smt. Bhagwati Bai that in the panel the serial number of her husband was 1004 while the serial number of Shankerlal Kishorilal was at No. 2. Hence, her husband was not appointed against the working post and he died as a substitute C&W Khalasi. He has further drawn our attention towards letter dated 19.7.1983 (Annexure R-1 in OA No. 666/2004) in which it is mentioned that the husband of the applicant No. 1 was substitute C&W Khalasi and hence, no payment of family pension and death cum gratuity and Railway insurance is payable in this case. Hence, the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the respondents and carefully perusing the pleadings and records, we find that compassionate appointment is not granted as a matter of right. It is an immediate relief granted to the family of the deceased employee so that the family should not feel any acute financial crises. Now in this case a period of about 23 years has been passed from the date of death of the deceased employee. Secondly, we have perused the letter dated 22.1.1990 (Annexure A-5 in OA No. 666/2004) in which it was informed by the respondents to the applicant No. 1 Smt. Bhagwati Bai that in the panel the serial number of her husband was 1004 while the serial number of Shankerlal Kishorilal was at No. 2. Hence, her husband was not appointed against the working post and he died as a substitute C&W Khalasi. We also find that in the letter dated 19.7.1983 (Annexure R-1 in OA No. 666/2004) it is mentioned that the husband of the applicant No. 1 was substitute C&W Khalasi and hence, no payment of family pension and death cum gratuity and Railway insurance is payable in this case. The applicants have

mentioned in their OAs that the juniors to the deceased Government servant were regularized during his life time but this matter was neither agitated by the deceased Government servant during his life time or by the applicants. The regular employees are only entitled for the family pension and compassionate appointment and the substitutes are not eligible.

7. In view of the aforesaid facts and circumstances, we are of the opinion that the applicants have failed to prove their case and these Original Applications are liable to be dismissed as having no merits. Accordingly, both the Original Applications are dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अग्रेषित :—
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल
(3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसल
(4) कंट्रोलर, के.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

K.K. Pathak Adv. OBC 2 Copies

S.P. Sinha Adv. OBC 2 Copies

Issued on 14-2-05