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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**JAIPUR BENCH, JAIPUR**

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**ORDER SHEET**

**ORDERS OF THE TRIBUNAL**

07.05.2008

MA No.142/2008 (OA No.136/2006)

Mr. C.B.Sharma, counsel for the applicant  
Mr. V.S.Gurjar, counsel for respondent No. 1 to 3  
None present for other respondents

This Misc. Application has been moved by the applicant for listing the case for early hearing. In view of the averments made in the MA, MA is allowed. Let the OA be listed for hearing on 16.5.2008. MA shall stand disposed of.

  
(M.L.CHAUHAN)

Judl. Member

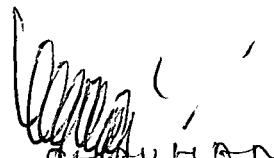
R/

16-5-08

Mr. C.B. Sharma - Counsel for applicant  
Mr. V.S. Gurjar - Counsel for respondents

Heard the learned counsel for the parties. Judgment reserved

21/5/2008  
order pronounced today  
in the open court by the  
aforesaid Bench  
21/5/08  
C-D  
R/

  
(M.L.CHAUHAN)  
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 21<sup>st</sup> day of May, 2008

ORIGINATION APPLICATION NO. 136/2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

Miss Rajni Raisinghani daughter of Late Shri Harish Rai Singhani, aged about 28 years, resident of House No. 2/97, New Bus Stand, Ajay Nagar, Ajmer. Aspirant for appointment on compassionate grounds on suitable post.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Jaipur.
2. Chief Works Manager, North Western Railway, Loco Workshop, Ajmer.
3. Deputy Chief Material Manager, North Western Railway, General Store, Ajmer.
4. Senior Divisional Personnel officer, North Western Railway, Ajmer Division, Ajmer.

.....RESPONDENTS

(By Advocate: Mr. V.S. Gurjar)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief:-

- (i) That the entire record relating to the case be called for and after perusing the *same respondents may be directed to reconsider and to give appointment to the applicant on any suitable post on compassionate grounds by quashing letter dated 27.02.2006 (Annexure A/1) with all consequential benefits.*
- (ii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts & *circumstances of the case.*
- (iii) That the cost of this application may be awarded."

2. Briefly stated, facts of the case are that the applicant is the elder daughter of Late Shri Harish Rai Singhani, who died on 02.02.2003 while working Special Bharvahak in Carriage Stores with the respondents. She has filed this OA thereby challenging the order dated 27.02.2006 whereby pursuant to the direction given by this Tribunal in OA No. 535/2005 decided on 29.11.2005, representation of the applicant was rejected. It may be stated here that earlier the applicant has filed OA No. 199/2004 thereby challenging the order passed by the respondents on 30.12.2003 and 13.11.2003 whereby the applicant was informed that right to compassionate appointment is available to the widow of the deceased employee and that her application is not in accordance with the rules and as such the matter was not processed. The said OA was decided on 31.03.2005 with the direction to respondent no. 3 to consider this OA as a representation and pass reasoned and speaking order by quashing the

aforesaid impugned orders. Pursuant to the order passed by this Tribunal, the respondents have passed a fresh order dated 13.06.2005 (Annexure A/3) holding that the mother of the applicant, Smt. Laxmi Devi, has not given her consent to consider the applicant's case to give her appointment on compassionate grounds. Therefore, checking the matter at eligibility stage, the case is not found eligible. The second ground on which the application of the applicant was rejected is that she has not given any declaration that she will take care of the family of the deceased employee. The said order was challenged in OA NO. 535/2005 which OA was disposed of by this Tribunal vide order dated 29.11.2005 thereby directing the applicant to make fresh application requesting appointment on compassionate grounds which will be considered by the respondents as per rules and which shall not be rejected solely on the ground that the mother of the applicant has not given her consent to consider the candidature of the applicant on compassionate grounds. It was further directed that in case such an application is made within a period of one month, the respondents shall entertain the same and decide in accordance with law within a period of two months thereafter. It was further observed by this Tribunal that the applicant has already given such

undertaking/declaration to the effect that she will take care of the family of the late deceased employee. Pursuant to the direction given by this Tribunal in second OA, the respondents have, again passed the fresh order dated 27.02.2006 (Annexure A/1). It is this order which is challenged by this Tribunal.

3. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, it has been stated that the representation of the applicant was decided by the competent authority by giving detailed reasoned & speaking order and the action of the respondents is perfectly legal and in accordance with law. In the reply, the respondents have supported the reasoning given in the impugned order. It is stated that the appointment on compassionate ground is within the competence of DRM/HOD/CWM in SAG grade. Therefore the application of the applicant was rejected at the stage of scrutiny. It was not required to be processed further. Respondents have further stated that settlement dues cannot be paid to the widow of Late Shri Harish Rai Singhani as there was discrepancy in the name of the widow. The respondents have categorically stated that the applicant has not indicated as to how and in what manner the decision

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of the respondents in not giving appointment to her is erroneous, unjustified, unreasonable and arbitrary. It is further stated that the applicant is gainfully employed in Pratap Memorial Hospital, which is sufficient to maintain herself and she has also not indicated as to how and whose specific help she is surviving since last three years.

4. The applicant has filed rejoinder thereby reiterating the stand taken by her in the OA. Along with the rejoinder, the applicant has placed on record the copy of the certificate issued by the Pratap Memorial Hospital & Research Centre dated 10.02.2007 whereby it has been certified that the applicant is working on part time basis for learning application and working of computer and takes Rs.1200/- per month as her pocket expenses.

5. I have heard the learned counsel for the parties and have gone through the material placed on record. At the outset, it may be stated that the applicant has challenged the validity of order dated 27.02.2006 (Annexure A/1) but she has not indicated as to how and in what manner the decision taken by the competent authority in not giving appointment to her is erroneous, unjustified, unreasonable and arbitrary. At this stage, it will be useful to quote

the decision arrived by the competent authority vide impugned order dated 27.02.2006 (Annexure A/1) in extenso, which thus reads:-

*"As per orders of Hon'ble CAT-JP passed in OA No. 535/2005 dated 29.11.05, I have considered the representation of Ku. Rajni Raisinghani. In her representation, Ku. Rajni has stated that after death of her father only she is entitled for appointment on compassionate grounds in Railway Service. Her mother is serving in State Govt. as ANM. Due to dispute between her father and mother, her mother was living separately from her father for last 15 years. Her father was working in Railway as Sp. Bharvahak in Carriage Stores and died on 02.02.2003 after long sickness. Ku. Rajni Raisinghani has applied for appointment in service on compassionate grounds in the meantime, Smt. Laxmi Devi (Rakhi) has applied for payment of all settlement dues to her and also appointment to her younger daughter on compassionate grounds. The payment of settlement dues is held up due to some discrepancy in name of the widow. The widow has been advised to clear the discrepancy by obtaining legal succession certificate from court.*

The widow has filed an application in Civil Court for succession certificate and Ku. Rajni has also submitted her claim for succession in the court. The certificate is yet to be received from either party.

Compassionate ground appointment is meant to provide immediate relief to the family, whereby an employee dies in harness leaving his family in penury and without any means of livelihood. The whole object of granting compassionate ground appointment is thus to enable the family to bide over the sudden crises to loss of the sole bread winner. The authority competent to sanction such appointment has to see the financial condition of the family by the deceased employee and only if it is satisfied that loss of bread winner has put the family in destitute condition, This principle has also been held by Hon'ble Supreme Court in their judgement on the subject matter. Object of the scheme of providing appointment on compassionate grounds to an eligible dependant family member of Railway employee, who died in harness, is to relieve the dependant family members from financial distress caused by the death.

Family of deceased employee, late Shri Harish Raisinghani is consisted of wife and two daughters Ku. Rajni is elder daughter and Ku. Jaya is his younger daughter. Wife Smt. Laxmi (Rakhi) is serving in State Govt. as ANM and elder daughter Ku. Rajni is working in a private hospital.

The statement of Ku. Rajni Raisinghani that her mother had deserted her father for last 15 years leaving separately is not correct. An application of his

father dated 10.07.02 for withdrawal from PF for her mother treatment does not support it.

Moreover, the widow has her own house in Housing Board Scheme, at Ajmer. She & her younger daughter are residing in one room and Ku. Rajni Raisinghani is residing in another room of same house. Father of late Shri Harish is alive. He has given written statement that Smt. Laxmi Devi (Rakhi) is legal wife of his late son. All above facts are available on record, which do not support to Ku. Rajni's statements that her father had deserted to Smt. Laxmi Devi for last 15 years (in some application of Ku. Rajni, it is 20 years), she being the eldest daughter living with his father. There is no such document available on record to establish that Smt. Laxmi is not legal wife of the deceased employee. The widow is serving in State Govt. and the settlement payment including pension is also due to the family of deceased employee.

After going through the case and facts available on record, I do not find any justification to provide compassionate appointment to Ku. Rajni Raisinghani or her younger sister at this stage. The request of Ku. Rajni to provide her appointment on compassionate ground is rejected."

6. From the portion, as quoted above, it is clear that the claim of the applicant for seeking compassionate appointment is based on the fact that her mother has deserted her father for the last 15 years and she is living separately from her mother, who is already working with the State Government as an ANM. From the material placed on record, it is evident that the deceased's family consists of the widow and two daughters including the applicant. It is the case of the applicant that she alone is living separately whereas her younger sister is living with her mother. This case of the applicant has been specifically negated by the respondents by stating that as per the application given by the father of the applicant on dated

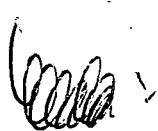
10.07.2002 for withdrawal from PF, reason for such withdrawal of the amount was for treatment of wife, which fact proves that the deceased employee has not deserted the mother of the applicant. The competent authority has further recorded the finding that the mother as well as younger sister are residing in one room. Widow has her own house in Housing Board Scheme at Ajmer. The applicant is sharing accommodation in the same house. The respondents have relied upon the statement of the father of the deceased employee to the effect that Smt. Laxmi Devi (Rakhi) was the legal wedded wife of his son. It is on the basis of these findings; the competent authority has come to the conclusion that the plea taken by the applicant that she is living separately with her mother and her father had deserted her mother cannot be accepted. According to the respondents, the widow is serving in State Government and the settlement payment including pension is also due to the family of the deceased employee. As such, it cannot be said to be a case where the family is facing financial distress caused by the death of the deceased employee. Thus I am of the view that there is no infirmity in the order passed by the respondents. Besides that from the material placed on record, it is evident that the father of the applicant had executed nomination form for PF, GIS and DCRG dated

25.03.1999 wherein he had nominated his wife, Smt. Laxmi Devi (Rakhi), indicating the address as 2/97, Ajay Nagar, Ajmer. In the said nomination form, it was specifically stated that in the event of death of Smt. Laxmi Devi (Rakhi), applicant and Kumari Jaya were indicated as heir/nominee mentioning the aforesaid address which show that the entire family of the deceased employee was living together in 1999. Thus the entire story which is sought to be projected by the applicant appears to have been clearly concocted with a view to seek compassionate appointment, thus cannot be accepted. Thus I am of the view that there is no infirmity in the impugned order. As already stated above, the applicant has also failed to point out any infirmity in the impugned order. As such no interference is required by this Tribunal.

7. Learned counsel for the applicant argued that it was not permissible for the respondents to reject the application of the applicant at thresh hold and the matter was required to be placed before the competent authority, which could have gone into the indigent circumstances of the family. Though the submission made by the learned counsel for the applicant is attracted but I am of the firm view that the contention raised by the learned counsel for

the applicant will not serve any purpose as the fact remains that the condition of the family cannot be said to be indigent which requires appointment on compassionate grounds. As already stated above, the family consists of two daughters and widow. Widow is employed in the State Government as an ANM. Even the applicant has admitted in the rejoinder that she is gainfully employed in the hospital. Further the family will also be entitled for pensionary settlement dues. If the matter is viewed from the aforesaid angle, it is not a case where the applicant is required to be granted appointment on compassionate grounds and placing the case of the applicant before the committee will be the futile exercise.

8. For the reasons stated herein above, I am of the view that OA is bereft of merit. Accordingly, it is dismissed with no order as to costs.

  
(M.L. CHAUHAN)  
MEMBER (J)

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