

OPEN COURT
**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(ALLAHABAD THIS THE 25th DAY OF MAY, 2018)

Present

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Original Application No.330/01091/2017
(U/S 19, Administrative Tribunal Act, 1985)

Km. Shahin, aged about 24 years, D/o Late Intzar, R/o Village Moharka Patti, Post Kankakher, P.S. Gajraula, District Amroha, U.P.

.....Applicant

V E R S U S

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway Moradabad.
3. Senior Divisional Personnel Officer, Northern Railway, Moradabad.
4. Assistant Divisional Engineer, Northern Railway, Hajipur.

.....Respondents

Advocates for the Applicant:- Shri N.P. Singh

Advocate for the Respondents:- Shri G.K. Tripathi

ORDER

(DELIVERED BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Shri N.P. Singh, learned counsel for the applicant and Shri G.K. Tripathi, learned counsel for the respondents are present. On the

request of learned counsel for the parties the case is taken up for final disposal today.

2. Present original application has been filed with a prayer to issue a direction in the nature of mandamus directing the respondents to decide his pending representation dated 03.03.2015 (Annexure A-3) and subsequent representation dated 17.10.2016 (Annexure A-11). Subsequently, the applicant has moved an amendment application No.330/00276/2018 where the applicant annexed an order dated 18.10.2011 where the claim of the applicant for appointment on compassionate grounds has been rejected solely on the ground that the applicant has born out of second marriage.

3. Heard learned counsel for the parties. Shri N.P. Singh, appearing on behalf of applicant vehemently argued that the impugned order rejecting the claim of the applicant for appointment on compassionate grounds based upon the circular issued by the Railway Board on 02.01.1992 is contrary to the settled law. To substantiate his plea he relied upon the case of *Smt. Namita Goldar and Another Versus Union of India and Others reported in 2010 LAB. I.C. 1465 (Calcutta High Court)* where the Hon'ble Calcutta High Court has set aside the circular issued by the Railway Board on 2nd

January, 1992 which the respondents are relying upon while rejecting his claim. Therefore, he argued that the respondents cannot reject the claim of the applicant by relying upon the circular which has already been set aside. He also submitted that similar plea for appointment on compassionate grounds of wards born out of second marriage of the deceased employee has also been considered by the Hon'ble High Court of Allahabad in Writ petition No.51707 of 2015 passed in the case of Union of India and 3 others Versus Amit Kashyap and 2 others dated 14.11.2017 where the view taken by the Railway has been set aside. Therefore, he prayed that the original application be allowed, the impugned orders be set aside and the respondents be directed to reconsider the claim of the applicant in the light of the circular of Railway Board dated 2nd January, 1992.

4. Shri G.K. Tripathi, learned counsel for the respondents has reiterated what has been stated in the written statement.

5. Based upon the above noted facts and the judicial pronouncements on the issue that the circular dated 2nd January, 1992 has been set aside, therefore, the objection raised by the respondents in the original application rejecting the claim of the applicant cannot be approved.

6. Accordingly, the impugned orders are hereby set aside, the matter is remitted back to the respondents to re consider the case of the applicant in view of the circular of Railway Board dated 2nd January, 1992 and the policy laid down by the applicant for appointment on compassionate grounds, otherwise a reasoned order be communicated to the applicant within a period of two months from the date of receipt of a certified copy of this order.

7. Original application stands disposed of. No Costs.

(Sanjeev Kaushik)
Member-J

/ns/