

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1707/2015
M.A. No.272/2015

Wednesday, this the 1st day of February 2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

1. Naveen, aged 20 years
s/o Late Mr. Prahlad
r/o Ward No.13, Jatauli, Distt. Gurgaon
2. Ms. Suman, aged 25 years
d/o Late Mr. Prahlad
r/o Ward No.13, Jatauli, Distt. Gurgaon

..Applicants

(Mr. Yogesh Sharma, Advocate)

Versus

1. Union of India through
The General Manager
North Western Railway, Jaipur
2. The Divisional Railway Manager
North-Western Railway, Jaipur Division
Jaipur
3. Senior Section Engineer (P. Way)
North-Western Railway, Rewari (Haryana)
4. Mr. Satpal
s/o Late Mr. Prahlad
r/o Ward No.13, Jatauli, Distt. Gurgaon

..Respondents

(Mr. A. K. Srivastava, Advocate for respondent Nos. 1 to 3,
Mr. Shashi Bhushan and Mr. Sunil Kumar Ojha, Advocates for respondent No.4)

O R D E R (ORAL)

M.A. No.272/2015

M.A. seeking joining together in a single petition is allowed.

O.A. No.1707/2015

Through the medium of this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed for the following main reliefs:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 27.08.2014, declaring to the effect that same is illegal and arbitrary and consequently, pass an order directing the respondents to consider and to appoint the applicant No.1 on compassionate ground on any suitable post with all consequential benefits.”

2. The brief facts of the case are as under:

2.1 Applicant’s father late Shri Prahlad was working as a Gangman in the respondent-Department. He died in harness on 13.06.2012 leaving behind two sons and one daughter. Respondent No.4 is the elder son, applicant No.1 is the younger son and applicant No.2 is the daughter of the deceased. Wife of the deceased has been missing since the year 2000 and the Additional Civil Judge (Sr. Division), Pataudi District, Gurgaon vide order dated 03.02.2014 has declared her as dead.

2.2 Applicant No.1 has been praying for compassionate appointment but his request has not been considered by the respondents on the ground that unless all the three siblings of the deceased give their consent for the compassionate appointment, the request cannot be considered. Respondent No.4 has not given his consent for the compassionate appointment of applicant No.1.

3. Learned counsel for applicants submits that respondent No.4 was living separately from the deceased government servant and that he is married and is having two children. He further argues that the Railway Department is required to consider the case of the applicant No.1 for the compassionate appointment in terms of R.B.E. No.3/2009. Mr. Sharma particularly drew my attention to paragraph 3 of the said R.B.E., which reads as under:-

“3. It is reiterated that at the time of considering such requests for compassionate appointments, the Competent Authority should satisfy himself/herself on the basis of a balanced and objective assessment of the financial condition of the family that the grounds for compassionate appointment in each such case is justified, having regard to the number of

dependants, assets and liabilities left by the Railway employee, income of any earning member of the family, as also his liability, including the aspect of whether the earning member is residing with the family of the deceased employee and whether he provides any support to other members of the family. Other provisions contained in Board's letter No.E(NG)-II/98/RC-1/64 dated 28.7.2000 may continue to be followed.

Mr. Sharma contended that the respondent-Department may be directed to conduct a fair inquiry in terms of paragraph 3 of R.B.E. No.3/2009 and take an appropriate decision with regard to the compassionate appointment.

4. Learned counsel for respondent No.4, controverting the submissions made in the O.A. and arguments put-forth on behalf of the applicants, submitted that when his father, Shri Prahlad died, he was only 25 years of age and as per an oral understanding, the provident fund, family pension and other financial benefits in respect of the deceased were supposed to go to the applicants, and respondent No.4 was supposed to get the compassionate appointment. It was further submitted that all the financial benefits accordingly have gone to the applicants but respondent No.4 has been denied the compassionate appointment. It was also submitted that if the pro-rata share in the financial benefits received by the applicants is equitably shared with respondent No.4, then respondent No.4 would have no objection to applicant No.1 being given compassionate appointment by the Railway Department.

5. Mr. A. K. Srivastava, learned counsel for respondent Nos. 1 to 3 drew my attention to the procedures laid down by the Railway Department for compassionate appointment as per Annexure R-1. He further submitted that if the siblings of the deceased government servant agree that applicant No.1 be considered for the compassionate appointment, the Department will have no objection to consider the same as per Rules.

6. Replying to the arguments of learned counsel for respondent No.4, Mr. Sharma, learned counsel for applicants stated that there was no informal understanding between the siblings of the deceased government servant as to the distribution of the financial benefits amongst them. He further submits that when Shri Prahlad died, respondent No.4 was over 29 years of age and as such he could not have got any share in the family pension. Other financial benefits have been duly shared amongst three siblings.

7. I have given my thoughtful consideration to the arguments put-forth by the learned counsel for the parties and perused the material placed on record.

8. It is an admitted fact that respondent No.4 is the elder son of the deceased government and is at present over 33 years old. As such, he is not eligible for the appointment on compassionate grounds in terms of the extant Rules. There is nothing on record to show that there was any informal understanding between the three siblings of the deceased government servant with regard to the sharing of the financial benefits. More so, such an understanding is beyond the purview of the present O.A.

9. In the matters of compassionate appointment, the Railway Department has laid down comprehensive guidelines vide R.B.E. No.3/2009. It would only be appropriate that the respondent-Department acts in terms of the said guidelines in this case. Hence, I consider it appropriate to issue necessary directions to the respondent-Department in this regard.

10. In the conspectus of the discussions in the foregoing paragraphs, this O.A. is disposed of with the following directions to the respondents:

The respondents shall conduct a fair inquiry in terms of R.B.E. No.3/2009 and decide as to which one of the three siblings of the deceased government servant is eligible and could be considered for grant of

compassionate appointment, and accordingly process the case of said person for the compassionate appointment in terms of the extant Rules. This shall be done within a period of three months from the date of receipt of a copy of this order.

No order as to costs.

(K.N. Shrivastava)
Member (A)

February 1, 2017
/sunil/