

**Central Administrative Tribunal
Principal Bench**

OA No.3018/2014

Order reserved on : 18.05.2016
Order pronounced on : 31.05.2016

Hon'ble Mr. V.N. Gaur, Member (A)

Neelam, Age 23 years,
D/o Late Shri Sukhbir Mehra,
R/o House No.542,
Shahbad Daulatpur,
Near Khatu Shyam Mandir,
Delhi-110042.

...applicant

(By Advocate : Shri Satpal Yadav)

Versus

1. Ministry of Railways, through the Chairman,
Railway Board, Rail Bhawan,
New Delhi-110001.
2. Eastern Railway, through General Manager,
Asansol, West Bengal-713301.

...respondents

(By Advocate : Shri Kripa Shankar Prasad)

ORDER

The following reliefs have been sought by the applicant in this OA :-

- “(a) That this Hon'ble tribunal may be pleased to quash and set aside the impugned order dated 22.04.2014.
- (b) Direct Respondent No.2 to consider the case of applicant for appointment on compassionate ground.

(c) Any further relief which this Hon'ble Tribunal deem fit under the facts and circumstances of the case.

(d) Cost of and incidental to this application be paid to the applicant by Respondent No.1 and 2."

2. In brief, the case of the applicant is that she is the daughter of late Shri Sukhbir Mehra, who died in harness on 30.07.2011 while serving as TTI in the Asansol, Eastern Railway. Following dissolution of her parents' marriage in 1997, she remained in the custody of her mother. Her mother remarried to one Shri Dhajja Singh. Her father remarried to one Smt. Mitali and had a son, named Shri Sagar, from the said wedlock. The grievance of the applicant is that when she applied for compassionate appointment after the death of her father duly supporting her claim by the Birth Certificate and several other documents that showed her relationship with the deceased, the respondent No.2 vide order dated 22.04.2014 rejected her application.

3. The learned counsel for applicant submitted that under the rules, the respondents could not have legally denied consideration of the applicant for compassionate appointment, as she was the daughter of the deceased employee. The respondents vide order dated 27.06.2013 (Annexure-3), had disbursed the family pension to the applicant duly recognising her as daughter of late Shri Sukhbir Mehra, the deceased employee, of the respondents. With their counter, the respondents themselves have filed an extract

from the service records of the deceased employee, i.e. "Legal Heir Report Form" (page 31 of the counter reply), wherein the names of the applicant and her half brother Shri Sagar Mehra have been mentioned against the Column 4 as the "Name of the children & step children of the deceased". In the impugned order dated 22.04.2014, while rejecting the application of the applicant for compassionate appointment, the respondents have relied on the undertaking given by the mother of the applicant at the time of the dissolution of her marriage in 1997 to the effect that she had "voluntarily relinquished all rights" out of her wedlock with the ex-employee. Moreover, the daughter does not figure anywhere in the legal documents, even her School Leaving Certificate does not bear the name of ex-employee as her father. According to the learned counsel, the respondents are using the aforementioned undertaking to illegally deny the right of the applicant, because the undertaking given by applicant's mother at the time of dissolution of the marriage is in respect of relinquishing her claims vis-a-vis her husband, and that could not be applied to the daughter of the couple from a legally valid marriage. The learned counsel, therefore, pressed for quashing the letter dated 22.04.2014 and a direction to the respondents to offer appointment to the applicant on compassionate ground.

4. The learned counsel for respondents submitted that the applicant had no claim for compassionate appointment, as

nowhere in their records the name of the applicant appears as the daughter of the deceased employee. Further, at the time of the dissolution of marriage, the learned Court of Additional District Judge, Panipat had noted that the mother of the applicant had voluntarily relinquished all rights in consideration of payment of sum of Rs.17000/- in full and final settlement of her entire claim of Istridhan/permanent alimony and obtained the custody of her daughter (the applicant). The documents submitted by the applicant also showed the name of her father as Shri Dhajja Singh and not as Shri Sukhbir Mehra (late). The learned counsel has also drawn attention to the 'No Objection Certificate" given by the applicant on 29.01.2013 (page 30 of the counter reply) in favour of Shri Sagar Mehra, for consideration of appointment on compassionate grounds by the respondents. The applicant cannot now go back on her NOC and seek the compassionate appointment for herself. Lastly, the learned counsel submitted that the basic consideration for giving compassionate appointment was to give relief to the dependents of the deceased employee when he died. The applicant not being dependent on the deceased employee is entitled to the relief.

5. I have considered the submissions made by the learned counsels and gone through the documents placed on record. It is undisputed that the applicant was the daughter of late Shri Sukhbir Mehra from his first marriage. Even though some of the

documents like CBSE mark sheet and certificates do show the applicant's father's name as Shri Dhajja Singh, but that is explained by the fact that her mother got re-married to Shri Dhajja Singh in 1997 and her custody was retained by mother. Respondents have not been able to draw any light as to how their own documents like Legal Heir Report Form and the PPO for family pension (page 31 and 39 respectively of the counter reply) carry the name of the applicant as a daughter of late Shri Sukhbir Mehra. Be that as it may, the important factor while considering a person for compassionate appointment is that whether such person was dependent on deceased employee and whether the person was in need of immediate relief after death of her father. In case of the applicant, it cannot be said that that at the time of the death of late Shri Sukhbir Mehra, the applicant was dependent on him and because of his passing away, the family was in dire need of immediate assistance. Additionally, the applicant had given No Objection Certificate in favour of her half brother Shri Sagar when the later applied for compassionate appointment. It is obvious that the applicant herself has considered the need of Shri Sagar Mehra as much greater than her own while giving the NOC. Later on, she cannot complain that the respondents are not considering her request for compassionate appointment as a dependent on deceased employee.

6. In the light of the foregoing, I do not find any merit in the OA and the same is, accordingly, dismissed. No costs.

(V.N. Gaur)
Member (A)

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