

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**OA NO.3845/2016
MA NO.3485/2017**

Order reserved on 16.11.2017
Order pronounced on 07.12.2017

HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)

Smt. Pooja, aged about 31 years,
W/o late Shri Arjun,
R/o H.No.1381, Gali Gote Wali,
Sangatrashan, Paharganj,
New Delhi-110055.

...Applicant

(By Advocate: Dr. M.K. Gahlaut)

VERSUS

1. Northern Railway
Through its General Manager,
Head Quarter Office,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
DRM Office,
State Entry Road,
New Delhi.
3. Smt. Laxmi,
W/o Shri Suraj.
4. Shri Suraj,
S/o Shri Chhote Lal.
Both Residents of:-

A-45, Ganesh Nagar,
Part-II, Laxmi Nagar,
Delhi-110092.

...Respondents

(By Advocate: Mr. S.M. Arif & Ms. A.B. Heena)

:ORDER:

The current OA has been filed by the applicant seeking the following reliefs:

- "i. quash and set aside the letter dated 03.07.2015 vide NO.APP/CG/18572/CG CELL/P.
- ii. direct the respondents No.1 & 2 to allow the applicant to appear in the examination for obtaining the job on compassionate ground.
- iii. direct the respondents No.1 & 2 to grant the employment to the applicant on compassionate ground.
- iv. direct the respondents No.1 & 2 to release all kind of service benefits of deceased Arjun in favour of the applicant and minor son.
- v. Any other relief, which this Hon'ble Tribunal may deem fit and proper, in the facts and circumstances narrated hereinabove, may also be awarded to the applicant."

2. Briefly stated, the facts of the case are that Shri Arjun, son of Shri Suraj, Ex. Sr. Points man under SS/TKJ, unfortunately, expired on 10.03.2015. After his death, Smt. Pooja, wife of late Shri Arjun requested the respondents to appoint her on compassionate grounds. The applicant was married to late Shri Arjun on 22.11.2010 according to Hindu Rites and Ceremonies. The marriage was duly consummated between the applicant and her late husband and out of that wedlock, one male child was born on 01.11.2011. Private respondent No.3 is the mother-in-law and private respondent No.4 is the father-in-law of the applicant.

3. The applicant in the OA states that since January to February, 2014, the husband of the applicant had undergone

major brain surgery in B.L. Kapoor hospital. Prior to that, late Shri Arjun was on continuous dialysis. This process commenced from November, 2011 and continued till his death, on 10.03.2015. The applicant submits that due to illness, late Shri Arjun, had lost his physical and mental capacity/capability due to the clotting of blood in his brain, and was not aware about the consequences of his actions till his death on 10.3.2015.

4. On 23.04.2015, the applicant applied to the respondents for a job on compassionate grounds. On 30.04.2015 when the applicant was called for appearing in the written examination for the purpose of appointment on compassionate grounds, she was prevented from doing so on the ground of an alleged WILL dated 05.06.2014, as produced by respondent No.3 (mother-in-law of the applicant) through her authorized representative. She states that the alleged WILL does not bear the signature of her late husband. Despite this, the respondents No.1 and 2, through letter dated 02.07.2015 (sd.03.07.2015), directed the applicant and respondent No.3 to submit the probate of the WILL. It is stated that the private respondents No.3 and 4 have instituted the probate petition against the applicant on the basis of the alleged forged and fabricated WILL and the said petition is pending for adjudication before the learned Court ADJ, Patiala House, New Delhi. The copy of WILL has been annexed as Annexure A-3.

5. The applicant states that since the probate will take a long time, and she is under financial stress to look after her own and her child's upkeep and pay for her child's education, the respondents be directed to consider her case on compassionate grounds and allow her to appear in the written examination for completing the process of her appointment on compassionate grounds.

6. In the counter, the private respondent No.3 states that relations between late Shri Arjun and his wife (the applicant in the OA), were strained. The deceased husband of the applicant lodged many complaints against her, including the divorce petition No.2097/2014 in the Court of Principal Judge, Family Court, Tis Hazari, Delhi, on grounds of cruelty. However, due to the untimely death of Shri Arjun, the said petition was dismissed for non-prosecution on 30.03.2015. It is submitted that the WILL is not forged or fabricated, rather it is the last and genuine WILL of the deceased son of the private respondents No.3 and 4 and duly signed by him. He was in a sound state of mind at the time when he executed this WILL. The respondents No.1 and 2 have rightly rejected the claim of the applicant on the ground that the case is disputed and the WILL should be probated so that the claim of the parties can get a clean chit from the Competent Court.

7. It is further submitted that late Shri Arjun had clearly WILLED that the property and other benefits should be divided equally between his son and parents, and nothing should be given to his wife, the current applicant in the OA. In view of these facts and circumstances, the OA may not be entertained and the Competent Court of Appropriate Jurisdiction may be allowed to decide the issue as per WILL dated 05.06.2014.

8. In their counter dated 12.07.2017, the official respondents No.1 and 2 submit that during the process of applicant's appointment on compassionate grounds, Shri Suresh, the younger brother of late Shri Arjun submitted a copy of WILL executed by the deceased employee wherein it has been stated that "No Compassionate Ground appointment and settlement dues should be paid to his wife i.e. the applicant herein, and further stated that half of the settlement dues would be paid among his father, mother and his son".

9. The case was given to SWLI for conducting the inquiry. On examining the case, it was found that deceased employee had also filed a complaint against his wife in the police station regarding mental and physical torture. It is further stated that late Shri Arjun had filed a divorce case before the Hon'ble Court, which was dismissed by the Hon'ble Court due to non-appearance of the deceased employee or his counsel. In view of the 'Will' executed by late Shri Arjun against his wife, the Competent

Authority has advised both the parties to obtain "Probate of the Will" from the Competent Court for further necessary action. Hence, the case of the applicant herein for her appointment on compassionate ground was closed till submission of "Probate of Will". The same has not been submitted by either party, till date.

10. I have carefully gone through the facts of the case and considered the rival contentions of both the learned counsels.

11. Vide their letter dated 02.07.2015 (sd.03.07.2015), the respondents state that Shri Arjun s/o Shri Suraj Bhan, Sr.P/Man/TKJ expired on 10.03.2015, after whose death, Smt. Pooja, applicant in OA, w/o Late Shri Arjun, requested the respondents for appointment on compassionate grounds. Meanwhile, Shri Suresh, brother of late Shri Arjun, submitted a copy of "Will" executed by late Shri Arjun before his death dated 05.06.2014. In the "Will", it is stated that no compassionate appointment and payment of settlement dues should be paid to his wife Smt. Pooja. Rather, half of the settlement dues should be paid to his parents, and the other half, to his son. In view of these developments, the Competent Authority has decided that both the parties will obtain probate of the Will, from the Competent Court regarding payment of settlement dues etc. This communication was duly sent to both Smt. Pooja (applicant herein) and Shri Suresh (brother of late Shri Arjun), by the respondents.

12. Thus, both the parties have been advised to submit probate of the Will from the Court of competent jurisdiction for further necessary action.

13. I am totally in agreement with the decision taken by the respondents vide their impugned order/advise dated 02.07.2015 (sd.03.07.2015), directing both the parties to submit probate of the Will from the Competent Court before taking any further decision in the matter regarding compassionate appointment, as well as payment of dues to be paid, to the rightful recipient, as per law.

14. In view of the above mentioned facts and discussions, I find no reason to interfere with the impugned order dated 03.07.2015. The OA is accordingly dismissed. No costs.

Misc. Application No.3485/2017 also stands disposed of.

(PRAVEEN MAHAJAN)
MEMBER (A)

/JK/