

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O. A. No. 260/1116 OF 2012**  
Cuttack, this the 23<sup>rd</sup> day of March, 2018

**CORAM**  
**HON'BLE MR. S. K. PATTNAIK, MEMBER(J)**

.....  
Mangu Oram, aged about 23 years, S/o. Late Bandhana Oram, of Village-Chengiharan, PO/PS-Bisra, Dist-Sundargarh.

...Applicant

(By the Advocate-M/s. P. K. Nayak, H. B. Dash, S. Behera)

-VERSUS-

**Union of India Represented through**

1. General Manager, South Eastern Railway, Garden Reach, Kolkata, West Bengal.
2. Senior Divisional Personal Officer, South Eastern Railway, Chakradharpur Division, Chakradharpur, Jharkhand.

...Respondents

(By the Advocate- M/s. S. K. Ojha)

**ORDER**

**S. K. PATTNAIK, MEMBER (J):**

The applicant in the present Original Application has challenged the inaction of the authorities in not giving appointment to him on compassionate ground in spite of representation and reminder. Applicant has sought quashing of the order dated 08.06.2012 (Annexure-A/3) by which his claim for employment assistance on compassionate ground has been rejected.

2.       Applicant's case in short runs as follows:- The father of the applicant Late Bandhana Oram earlier married the mother (Smt. Lakhi Oram)

of the applicant. Out of their wedlock the applicant was born. Thereafter marriage between his father and mother broke down. Both the husband and wife remarried. So the applicant was abandoned by his father and kept under care of his maternal uncle. After the death of his father the applicant applied for employment under compassionate ground and made a representation on 05.02.2010 before the Respondent but the same is pending till today. Thereafter, on 04.03.2010 the applicant made a reminder. Thereafter Respondent No.3 vide intimation dated 08.06.2012 rejected the prayer for compassionate appointment on compelling reasons such as the declaration given by deceased for availing passes P.T.O's did not include the present applicant. The investigation made by the authority disclosed that the applicant is an illegitimate child from Fagni Oram; and there is no rule to provide employment assistance to children born out of an illicit relationship, since the applicant is not a family member and was not living with the deceased nor ever dependent upon him. The further plea is that the birth certificate of the applicant reveals the parentage of the applicant. The applicant had obtained a legal heir certificate from the competent authority i.e., the Tahsildar, Bisra where the petitioner is shown as the eldest son of the deceased Bandhan Oram. It is further submitted that the applicant is born from the wed lock of the 1<sup>st</sup> wife or even born as illegitimate child does not lose the character of son of the deceased. Applicant having status of a son of the deceased has got every right to the property of the deceased under Hindu Law. Thus the rejection of the prayer for compassionate appointment on the ground

that he was an illegitimate child has no legs to stand. Ld. Counsel for the applicant further submitted that as per Railway Service (Pension) Rules-1993 where a deceased Railway servant or pensioner leaves behind more children than one, the eldest child shall be entitled to the family pension until he attains the age of twenty five years. It is the further submission of the applicant that the Respondents have never considered the release of service benefit of the deceased in their letter though the applicant is entitled to a proportionate share i.e., half of the entire dues under the Pension Rules, 1993 vide Rule-75 where as it is admitted that except DCRG benefit others have been paid to the widow Lakhi Oram the step mother of the applicant. Thereafter, the applicant was constrained to approach this Tribunal by filing the present O.A. with the aforesaid prayers.

3. In the counter affidavit filed by the Respondents, it is pleaded that the application is defective one as plural remedies have been prayed for and as the applicant is admitting that he is the illegitimate child of the deceased Railway employee, no benefit under the compassionate scheme is admissible. The Respondents further pleaded that, where the legal heirship is under dispute, as per the provisions of Miscellaneous Certificate Rules, party should submit the Succession Certificate to prove his right conferred upon him under the Hindu law. The Respondents submitted that since, compassionate appointment is not a matter of right, the claim of the applicant also can not be accepted as the applicant is residing alone and if at all his version is accepted then he has survived for last 23 years without any help, assistance either from father or family. In such

situation, no reason is available to consider the applicant even if for the sake of argument it is accepted that the applicant is the legal heir of the deceased Railway employee. Nowhere in official records or declaration given by the deceased Railway employee, name of the applicant or his mother has ever been reflected. Further, legal heir certificate on the basis of which the retired and death benefits were released to the legal heirs of the deceased Railway employee, name of the applicant is also not appearing. Hence, any further certificate issued by the Authority without cancelling the certificate issued on 10.12.2009 is unacceptable. Hence there is no provision as per law to provide employment assistance to children born of illicit relationship. So the question of providing employment assistance or extending any benefit under the pension rules to applicant does not arise. In view of the aforesaid facts and circumstances, the O.A. is devoid from any merit and liable to be dismissed with cost.

4. Heard the Ld. Counsel for both the sides. Perused the record.
5. Coming to the impugned order dated 08.06.12 (Annexure-A/3) one thing is crystal clear that due to want of ancillary documents in the department, the authorities did not consider the applicant as legal heir of the deceased employee and as such question of giving compassionate appointment does not arise.
6. There is nothing wrong in the impugned order calling for interference. The Sr. Divisional Personnel Officer Chakradharpur rightly

reflected that the ex-employee had never acknowledged the applicant as his family member and he was never leaving within him or dependent on him what to speak of reflection of his name in the Railway Pass or in the Service Book. Since in the Railway record name of the applicant does not find place as the son or dependent of the deceased employee, the applicant for all practical purpose shall be treated as foreigner to Railway, and no fault can be found in the action of the Respondents calling for interference. Hence ordered.

7. The O.A. being devoid of merit is dismissed. No costs.

( S. K. PATTNAIK)  
MEMBER (J)

K.B./C.M

