

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application Nos. 040/00126/2017

Date of Order: This, the 5<sup>th</sup> day of January 2018

**THE HON'BLE MR. S.N. TERDAL, JUDICIAL MEMBER**

Ms. Himani Hira  
D/O Late Dimbeswar Hira  
R/O New Colony Lumding Town  
P.O/P.S: Lumding, Pin – 782447.

...Applicant

By Advocates: Mr. R.J. Das & Mr. U. Pathak

-Versus-

1. The Union of India  
Represented by:-  
The General Manager  
N.F.=. Railway  
Maligaon, Guwahati – 11  
Assam.
2. The General Manager  
N.F. Railway, Maligaon  
Guwahati – 11, Assam.
3. The Chief Personal Officer  
N.F. Railway, Maligaon  
Guwahati – 11, Assam.
4. The Divisional Railway Manager  
Lumding, N.F. Railway  
P.O. – Lumding, 782442  
District – Nagaon (Assam).

5. The Assistant Personal Officer-II  
Office of the Divisional Railway Manager (P)  
Lumding, N.F. Railway P.O. – Lumding  
782447, Dist – Nagaon.

... Respondents

By Advocate: Ms. U. Das, Railway Standing Counsel.

**Date of Hearing: 02.01.2018**

**Date of Judgment: 05.01.2018**

**ORDER**

**MR. S.N. TERDAL, MEMBER (J):**

This O.A. has been filed by the Applicant under Section 19 of the Central Administrative Tribunal Act, 1985 for setting aside the impugned order passed by the Respondents dated 02.12.2016 rejecting the application for appointment on compassionate ground on the ground that dependency of the Applicant on the ex. employee was not proved.

2. Heard Mr. R.J. Das, learned counsel for the Applicant and Ms. U. Das, learned railway standing counsel for the Respondents. Perused the pleadings and all the documents produced by both parties.

3. The brief facts of the case are that one Sri Dimbeswar Hira was a Trackman in the Railways. After his death on 15.09.2005, his son Sri Rahul Hira was appointed on compassionate ground as Gatekeeper. Said Sri Rahul Hira was unmarried. He also died while in service on 19.01.2015. The mother of the Applicant namely Smt. Niru Hira submitted an application for appointment of the Applicant on compassionate ground on 22.07.2015 after death of her son Ratul Hira. As the name of the Applicant was not shown as dependant of the ex. employee Late Ratul Hira in the Railway pass declaration or in the affidavits filed by the said mother Smt. Niru Hira, the respondents deputed Sri Pranatosh Datta, Welfare Inspector for verification of dependency of the Applicant, as per the Railway Board Circular No. E (NG)-II/2014/RC-1/SCR/5 dated 08.07.2014 regarding the procedure for verifying the dependency by deputing Welfare Inspector, relevant portion of which is extracted below:-

"However, the dependent of an unmarried male/unmarried female Railway employee dying in harness/retiring on medical grounds, may be considered for compassionate appointment by the Railway at its own level, subject to the condition that the candidate proposed for appointment is shown as dependent on the ex-employee on the basis of documents such as inclusion/declaration of names in the pass or in Ration cards etc.. The condition of inclusion in the pass declaration or Ration cards etc. is

only a facilitating factor, and not intended to be a restrictive one. In the absence of any such documentary proof, the factual position regarding the extent of the dependency may be got verified by deputing a Welfare Inspector to inquire into the circumstances. The relaxation of time limit permissible in the case of minor children of those employees who die in harness would also apply in the case of dependants of those who die as bachelor/spinster."

4. Sri Pranatosh Datta, Welfare Inspector submitted his report on 17.05.2015. Said report is extracted below:-

"To

DRM(P)/LMG

Dated:

Sub: CGA claim of Miss Himani Hira elder sister of Lt. Ratul Hira, ex gatekeeper under SS/LFG expired on 19.01.2015 (Bachelor).

On scrutiny for claim of CGA appointment of Miss Himani Hira elder sister of Lt. Ratul Hira, ex gatekeeper/LFG under SS/LFG exp. On 19.01.2015 (Bachelor) the following points has raised.

1. Lt Ratul Hira S/O Lt. Dimbeswar Hira ex Sr. Tackman SSE/P. WAY/H/LMG was appointed under CGA due to death of his father while in service.
2. Smt. Niru Hira W/O Lt. Dimbeswar Hira submitted Affidavit at the time of payment of final settlement dues of her husband Lt. Dimbeswar Hira where the name of Miss Himani Hira was not mentioned. (Copy enclosed).
3. Moreover death and heirship certificate of Lt. Dimbeswar Hira proofs that he had no unmarried daughter named Miss Himani Hira. (Copy enclosed).
4. The educational certificates of H.S.L.C. (Admit card and marksheets) submitted by Smt. Niru Hira mother of Lt. Ratul Hira in favour of Miss Himani

Hira nowhere the name of father i.e. Lt. Dimbeswar Hira is mentioned.

5. Smt. Niru Hira after the death of her son Lt. Ratul Hira submitted an Affidavit on 11.05.2015 for payment of F.S dues of her late son there also the name of her Unmarried daughter Miss. Himani Hira was not mentioned. (Copy enclosed).
6. On field enquiry at Niru Hira's residence at New Colony, Lumding it is found that they don't have family ration card and also Miss. Himani Hira has no election identity card issued in her name where her father name may be seen. When asked to Smt. Niru Hira's Neighbours about her daughter they said they are not very much sure whether Miss Himani Hira is the daughter of Late Dimbeswar Hira or not. They are not ready to give witness as they know the family only for last 3 years.

From the above facts it is clear that Miss. Himani Hira is not the daughter of Lt. Dimbeswar Hira and elder sister of Lt. Rahul Hira ex gatekeeper/LFG under SS/LFG and is not eligible for CGA appointment.

Sd/-  
(Pranatosh Datta)  
S&WI/LMG"

5. On the basis of report of the Welfare Inspector dated 17.09.2015, the mother of the Applicant was informed by letter dated 04.02.2016 stating that the compassionate appointment of the Applicant cannot be considered as it was not clear as to whether the Applicant Ms. Himani Hira is actual daughter of Smt. Niru Hira and Late Dimbeswar Hira and elder sister of Late Ratul Hira. The said letter is extracted below:-

“N.F. Railway  
No. E/CGA/RH-241/01-15/142

Office of the  
DRM(P)/LMG  
Date: 04/2/2016

To  
Smt. Niru Hira  
M/O-Late Late Ratul Hira  
Ex. Gatekeeper under SS/LFG,  
Rly. Qtr. No – 288(D)  
New Colony, Lumding, P.O.-Lumding  
(782447), Dist-Nagaon (Assam).

Sub:- Application for CGA in Gr. “D”category  
Ref:- Your application dated 22.07.2015.

In reference to the above, this is to inform you that your application for compassionate ground appointment in favor of your daughter viz. Himani Hira against the death of your son Lt. Ratul Hira, ex. Gatekeeper under SS/LFG has not been considered by the competent authority because it is not clear and doubtful to the administration whether Ms Himani Hira is actual daughter of yours or elder sister of Late Ratul Hira.

Besides, you have already submitted an affidavit on dated 11.05.2015 where in the name of your daughter has not been mentioned in the family composition.

Hence, the case has been regretted from CGA by the competent authority.

Sd/-  
(R.K. PANDEY)  
APO-II/LMG.”

6. Against the said communication dated 04.02.2016 referred to above, Smt. Niru Hira, mother of the Applicant, made a representation supported by several documents issued by Revenue Authorities and High School Authorities and submitted further affidavit which all demonstrate that the Applicant is the daughter of said Smt. Niru Hira and Late Dimbesswar Hira and she is unmarried and unemployed. On

the basis of said representation, the Respondents deputed another Welfare Inspector namely Shri Manoj Kumar Rajak for verification of factual position. Said Shri Manoj Kumar Rajak, Welfare Inspector after verification submitted a report on 25.10.2016 stating that the Applicant is the daughter of Smt. Niru Hira and Late Dimbesswar Hira and she is unemployed and unmarried and is eligible for appointment under compassionate appointment scheme. Said report is extracted below:-

“To  
DRM (P)/LMG

Date: 25.10.2016

Sub: CGA Inquiry Report of Miss Himani Hira, elder sister of Late Ratul Hira (Bachelor), Ex-Gateman, under SS/LFG, expired on 19.01.2015.

On scrutiny for CGA appointment of Miss Himani Hira, elder sister of Late Ratul Hira, Ex-Gateman, under SS/LFG, expired on 19.01.2015 (Bachelor), the following points have been submitted.

1. Late Ratul hira, S/O – Late Dimbeswar Hira (Ex-Trackmaintainer under SSE/P-Way/LMG) was appointed under CGA due to death of his father while in service.
2. It has been revealed from the service record that, the name of Miss Himani Hira is not to be found in any of the service record of her father Late Dimbeswar Hira, Ex-Trackmaintainer under SSE/P-Way/LMG.
3. From the spot verification of school certificate by the Head Mistress of the concerned school (Hariamukh High School, P.O.: Hariamukh, Dist –

Nagaon, Assam, Estd-1993), produced by Miss Himani Hira is found genuine and also name of her father Late Dimbeswar Hira was registered in the school record. Head Mistress of the school has also told that Miss Himani Hira is the real daughter of Late Dimbeswar Hira. (School Verification Report enclosed).

4. Spot inquiry has been carried out at maternal grand parents' house of Miss Himani Hira at Vill-Paschim Dighaldori, P.O.: Paschim Dighaldori, Dist – Nagaon, Assam and found that Miss Himani Hira is real daughter of Late Dimbeswar Hira, Ex-Trackmaintainer under SSE/P-Way/LMG (Inquiry Report enclosed).
5. Also spot inquiry has been carried out at paternal grant parents' house of Miss Himani Hira at Vill-Bagalaja, P.O.: Pupgorimari, P.S.: Kampur, Dist – Nagaon-Assam and found that Miss Himani Hira is the real daughter of Late Dimbeswar Hira, Ex-Trackmaintainer under SSE/P-Way/LMG. (Inquiry Report enclosed).
6. Spot inquiry has again been conducted at the house of Miss Himani Hira's Mousaji and Mousi ji at Vill-Sahid Nagar, Noonmati, Guwahati, P.O. :- Noonmati-781020, Dist – Kamrup, Assam and found that Miss Himani Hira is the real daughter of Late Duimbeswar Hira, Ex-Trackmaintainer under SSE/P-Way/LMF. (Inquiry Report enclosed).
7. Also a certificate issued by Secretary, Bagalajan Gaon Panchayat, Kaktigaon, Dist – Nagaon, Assam, it has been revealed that, Miss Himani Hira is the real daughter of Late Dimbeswar Hira, a resident of Bagalagaon, P.O.: Pubguimari, P.S. Kampur in the District of Nagaon, Assam. She is also an unemployed and unmarried as per certificate issued.
8. It has been also revealed from the Voter Slip of Miss Himani Hira that Miss Himani Hira is real daughter of Late Dimbeswar Hira, Ex Trackmaintainer under SSE/P. Way/LMG. (Copy of voter slip is enclosed.)

From the above facts it is clear that, Miss Himani Hira is the real daughter of Late Dimbeswar Hira and the elder sister of Late Ratul Hira (Ex-Gateman under SS/LFG). So, Miss Himani Hira is eligible for appointment under CGA.

Submitted please.

Sd/-  
(Shri Manoj Kumar Rajak)  
S&WI/LMG"

7. Without properly appreciating the report of the Welfare Inspector dated 25.10.2016, the respondents issued the impugned letter dated 02.12.2016 informing that as the dependency on the ex-employee is not proved, the case cannot be re-opened. The said letter is extracted below:-

"N.F. Railway

No. E/CGA/RH-241/01-15/142

Office of the  
DRM(P)/LMG  
Date: 02/12/2016

To,  
Smt. Himani Hira  
D/O-Late Dimbeswar Hira  
Vill-Bagalajan  
P.O.-Pubguimari (782426)  
P.S.-Kanpur, Dist – Nagaon (Assam)

Sub: Application for CGA in Gr. "D" category  
Ref: This Office Letter of even no. dated 04.02.2016.

Your appeal for CGA has been regretted by the competent authority as the dependency with ex. employee and yourself is not proved.

Moreover, as per advise of CPO/Admn./MLG, once the case has been regretted earlier then the case is not to be reopened. As the claim for CGA submitted by your mother in favour of you has already been

regretted earlier, vide this Office Letter of even no. dated 04.02.2016.

Sd/-  
(SIDHARTH)  
APO-III/LMG."

8. In the additional affidavit dated 26.12.2017 at para 11 also the Respondents have stated that the competent authority did not find merit in the report of said Shri Manoj Kumar Rajak, Welfare Inspector and that they stand by their previous order dated 02.12.2016. Said averment is extracted below:-

"11) That the respondents beg to state that, in pursuance of Smt. Niru Hira's representation against DRM(P)/LMG's order communicated vide E/CGA/RH-241/01-15/142 dated 04.02.2016 a welfare inspector Sri Manoj Rajak deputed to inquire into the issue of genuinity of claim. Who gave his report on 25.10.2016 in favour of the candidate. However, competent authority did not find merit in the subsequent report and withstand the previous order."

9. Ms. U. Das, learned railway standing counsel for the Respondents vehemently supported the impugned order dated 02.12.2016 on the basis that the ex employee Late Ratul Hira did not declare the name of the Applicant as dependent sister during his life time and also on the basis that Late Dimbeswar Hira has not declared the name of the Applicant as daughter during his life time and that the said Niru Hira did not

declare the name of the Applicant in the affidavits submitted at the time of claiming final settlement dues.

10. But however, from the perusal of the report of the Welfare Inspector dated 17.09.2015, it is clear that said report is not correct. At para 4 of his report, the said Welfare Inspector Sri Pranatosh Datta relied on Admit Card and Marksheets to hold that the name of the father is not finding place in the said Admit Card and Marksheets. From the perusal of said Admit Card and Marksheets which are on record, it is clear that there is no provision for writing the name of the father or mother in the Admit Card and Marksheets. Further said Welfare Inspector recorded that he had enquired the neighbours of Smt. Niru Hira and said neighbours were not sure about the facts. But said Welfare Inspector does not specifically mention the name or identity of said neighbours whom he enquired with. He further relied upon the affidavits submitted by Smt. Niru Hira for claiming final settlement dues, which affidavits are submitted for limited purposes. But he did not take into account the latest affidavit submitted by her. For these reasons, the report of the Welfare Inspector dated 17.09.2015 is very vague, and incorrect and should not have been relied upon.

11. The second Welfare Inspector Shri Manoj Kr. Rajak in his report dated 25.10.2016 at para 3 to 6 has specifically mentioned the identity of the authorities and the close relatives whom he enquired and has taken into account the various revenue records.

12. The applicant has also produced various public records namely Next of Kin Certificate issued by Deputy Commissioner, Nagaon District, School Certificate issued by Office of the Headmaster, Hariamukh High School, Hariamukh, Nagaon, Caste Certificate issued by Asom Anusuchit Jati Parishad, Assam, residential certificate issued by Village Headman, Bagalajan (Bahakabari) Dangri Kissam, Raha, Nagaon (Assam) and Certificate issued by Bagalajan Gaon Panchayat, Kakatigaon, Nagaon, Assam. All these public documents demonstrate that the Applicant is daughter of the said Late Dimbeswar Hira and sister of the ex-employee Late Ratul Hira. From the perusal of the above record also, it is crystal clear that report of Shri Manoj Kumar Rajak, Welfare Inspector dated 25.10.2016 is reliable, but the respondents have arbitrarily did not find merit in the said report. As such, the submission of the learned railway standing counsel for the Respondents is not convincing. In the circumstances, the impugned order No.

E/CGA/RH-241/01-15/142 dated 02.12.2016 requires to be set aside and accordingly, hereby set aside.

13. In the result, O.A. is allowed. The respondents are directed to consider the case of the Applicant for appointment on compassionate ground in furtherance of Welfare Inspector's report dated 25.10.2010.

14. No order as to costs.

**(S.N. TERDAL)  
JUDICIAL MEMBER**

**PB**

ORIGINAL APPLICATION NO. 040/00126/2017

APPLICANT'S ANNEXURES

Sl. No.	Annexure	Particulars
1	A1	Application for compassionate appointment dated 22.07.2015
2	A2	Letter dated 04.02.2016 issued by APO/II Lumding
3	A3	Representation dated 17.08.2016 submitted by applicant's mother
4	A4	Letter dated 03.11.2016 issued by APO/II to the applicant.
5	A5	Affidavit dated 08.11.2016 submitted by the applicant.
6	A6	Representation dated 08.11.2016 submitted by the applicant.
7	A7	Certificate dated 20.10.2016 issued by Secretary, Baglajan Gaon Panchayat.
8	A8	Master Circular No. 16 of Ministry of Railway/ Railway Board
9	A9	Letter dated 08.07.2014 by Ministry of Railways/ Railway Board
10	A10	Letter dated 02.12.2016 issued by the APO, Lumding to the applicant.

ORIGINAL APPLICATION NO. 040/00126/2017

RESPONDENTS' ANNEXURES

Sl. No.	Annexure	Particulars
1	Annexure R-1, R-2, R-3 & R-4	Copy of affidavit dated 06.10.2005 and 11.05.2015 submitted by Smt. Niru Hira and Annexure-II and family declaration of Ratul Hira for the year 2006.
2	Annexure R-5 & R-6	A copy of RBE No. 70/2014 communicated vide Railway Board's I/no. E(NG)-II/2014/RC-1/SCR/5 dated 08.07.2014 and enquiry report of Sri Pranatush Datta, S&WI dated 17.09.2015.