

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, KOLKATA



O.A. NO. 350/00467/2016

Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member

1. Khuku Rani Dhar,  
Wife of late Kamini Kumar Dhar,  
Vill. + P.O. Udayrajpur,  
P.S. Madhyamgram,  
Calcutta :- 700 129.
2. Sandhya Rani Dhar,  
Wife of Late Kamini Kumar Dhar,  
Vill. + P.O. Udayrajpur,  
P.S. Madhyamgram,  
Calcutta :- 700129.
3. Bipul Dhar,  
Son of late Kamini Kumar Dhar,  
Vill. + P.O. Udayrajpur,  
P.S. Madhyamgram,  
Calcutta :-700129.

..... Applicants.

-Versus-

1. Union of India,  
Service through the General Manager,  
Eastern Railway,  
17 N.S. Road Fairlie Place,  
Calcutta :- 700001.
2. Divisional Railway Manager,  
Sealdah Division,  
Eastern Railway,  
Calcutta : 700014.
3. Senior Divisional Personnel Officer,  
Eastern Railway, Sealda Divn,  
Calcutta – 780014.

..... Respondents.

For the applicant : Mr. S.P. Bhattacharyya, Counsel

For the respondents : Mr. S.K. Das, Counsel

Heard on 27.06.2018

Order dated: 17.07.2018

**ORDER**

**Per Bidisha Banerjee, Judicial Member**

The applicant in this O.A. has assailed an order dated 12.07.2011 issued by DRM/ Sealdah which is set out hereunder:

" Sub: Request for job on compassionate ground

It is understood from your representation that you are the son of second wife of the ex employee. During the existence of first wife, second marriage is a void marriage. In terms of the Rly. Board's letter No.E(NG)II/91/RC-1/136, dated 02.01.92 while settlement dues may be shared by both the widows due to court-orders or otherwise on merits of each case compassionate appointment grounds to the second wife or her children should not be considered unless the second marriage was permitted by the railway administration, in special circumstances, taking into account the personal law etc.

Hence, compassionate appointment cannot be considered in terms of rule mentioned above."

2. The respondents have averred as under:

" Late Kamini Kumar Dhar, ex-employee and husband of 1<sup>st</sup> applicant was appointed in Railway Service in the year 18.12.67. During his service period he was promoted and served under SSE/Tele/Con/Sealdah as painter.

Kamini Kumar Dhar died in harness on 05.04.2001 and during his life time he declared his family in pass declaration as under:-

Khuku Rani Dhar	wife
Bipul Dhar	Son
Miss Arati Dhar	Niece
Miss Dhali Dhar	Niece

After the demise of Kamini Dhar, two ladies namely Khuku Rani Dhar and Sandhya Rani Dhar claimed themselves and 2<sup>nd</sup> wife of Kamini Dhar respectively.

As per extant rule the settlement dues of Kamini Kr. Dhar was disbursed to Smt. Khukurani Dhar (1<sup>st</sup> wife) and Bipul Dhar (son out of second wife) in equal share.

Khukurani Dhar had preferred an OA bearing No. 396 of 2006 before this Tribunal. This Tribunal was pleased to dispose of the matter giving a direction to respondents to consider the representation of applicant for compassionate appointment of Bipul Dhar (son).

In pursuance of Hon'ble CAT's order passed in OA no. 396/2006 a speaking order dt. 23.06.2006 was issued by Sr. DPO being respondent authority.

In this O.A. Khukurani Dhar, Sandhya Dhar and Bipul Dhar have filed the instant OA after 10 years of passing the speaking order, praying for compassionate appointment in favour of Sri Bipul Dhar.

The reason for rejection has already been stated in speaking order dated 23.03.2006 and second marriage is not permitted as per Hindu Marriage Act, 1955 and further in a letter dt. 12.07.2011 (A-14 of OA), it was stated that "the second wife or her children should not be considered unless the second marriage was permitted by the Rly. Admn, in special circumstances, taking into account the personal law".

Lt. Kamini Dhar did not take any prior permission or any consent from his employer before his second marriage. He even concealed the fact that he married Smt. Sandhya Rani Dhar as when his first marriage was subsisting. He nowhere incorporated the name of his second wife during his lifetime."

3. In the rejoinder the applicant has contended that the settlement dues were equally distributed between first wife and son of 2<sup>nd</sup> wife. His son was given railway passed, medical facilities which means that the Second marriage was recognised by the respondents and therefore "the respondents can not refuse the claim once the same is recognised".
4. Ld. Counsels were heard and materials on record were perused.
5. We noticed that the fact that Bipul Dhar is the son of deceased, born out of wedlock with 2<sup>nd</sup> wife, is not disputed.
6. Railway Board's circular dt. 24.1.92 which forms the basis of rejection of the case, stands quashed by several Benches, of this Tribunal vide such circular Railway Board had debarred consideration by 2<sup>nd</sup> wife or her children for employment assistance on compassionate ground.

7. In the aforesaid circumstances impugned order is quashed and it is ordered that the claim of Bipul Dhar shall be considered afresh untrammelled by earlier consideration and a reasoned and speaking order shall be issued within 8 weeks from the date of receipt of a copy of this letter.

8. O.A. is thus disposed of. No costs.

*Bidisha Banerjee*  
(Bidisha Banerjee)  
Judicial Member

DRH