

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 75 of 2017

This the 19th day of April, 2018

Hon'ble Dr. Murtaza Ali, Member-J

Ms. Uma Kumari, aged about 20 years, D/o Late Sri Satish Chandra Rajput, R/o LD-32E Terhi Pulia, Alambagh, Lucknow
.....Applicant

By Advocate : Sri Praveen Kumar
Versus.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Works Manager, Northern Railway, Loco Workshop, Charbagh, Lucknow.

.....Respondents.

By Advocate : Sri S.K. Awasthi

O R D E R (Oral)

1. By means of this O.A., the applicant has sought the following main relief(s):-

"to quash the impugned order dated 17.12.2016 and order dated 13.6.2016 (contained as Annexure no. A-1 & A-2 to this O.A.) with all consequential benefits.

To consider the case of the applicant for compassionate appointment on any suitable post."

2. Brief facts of the case are that the mother of the applicant- Smt. Shushila Devi, who was working as Khalasi under the respondent no.2, died in harness on 18.11.2014 leaving behind two daughters including the applicant (Ms. Uma Kumari). The father of the applicant died during the life time of the deceased employee. After the sad demise of her mother, the applicant preferred an application for appointment on compassionate ground by enclosing the relevant documents. After receipt of application, the competent authority deputed one Welfare Inspector to enquire into the matter and submit his report. The respondent no.2 issued a letter dated 13.6.2016 stating therein that the applicant had submitted the TC/ marks-sheet of the school from which she had not taken the study and the aforesaid TC/mark-sheet has been allegedly told to have been manufactured by his cousin namely Sachin. On receipt of aforesaid letter dated 13.6.2016, the applicant preferred a

representation on 29.6.2016 indicating therein that she had passed 8th Standard from All India Modern School, Karehata, Aishbagh, Lucknow in the year 2010 by requesting therein to kindly examine the genuineness of the TC/Mark-sheet and thereafter to consider her claim for appointment on compassionate grounds. It is also averred that upon receipt of the aforementioned representation, another Enquiry Officer was nominated, who visited the office of education authorities so as to examine the veracity of the facts furnished by the applicant regarding her educational qualification and the T.C/Marks-sheet produced by her. After enquiry, the Enquiry Officer submitted his report to the competent authority in favour of the applicant. However, the respondent no.2 rejected the claim of the applicant by order dated 17.12.2016 stating therein that on re-enquiry the educational certificates has not been found genuine. Hence, this O.A.

3. The respondents have filed Counter Reply denying the averments made in the Counter Reply by stating that the Welfare Inspector conducted the enquiry and during the course of enquiry the applicant made a statement in the presence of two witnesses that she never went to the school with a further mention that the applicant has never studied in class VIII and the marks-sheet was obtained by his cousin brother Sri Sachin. It was stated in the Counter Reply that after verification of documents, the Welfare Inspector submitted his report and upon considering the report of Welfare Inspector, the competent authority has rejected the claim of the applicant. It was also stated by the respondents that the name of two compassionate appointment candidate namely Sri Ajit and the applicant appeared at sl. No. 21 and 22 of the school register, which cannot be a coincidence. Further, the applicant had filled up the application for admission in class VIII on 6.7.2009 and has given an application for appointment on compassionate ground on 18.9.2015 and the photograph affixed in both the documents is the same. Lastly, the respondents have stated that the impugned order is valid and legal order as it has been passed after due application of mind and have prayed for dismissal of the O.A.

4. The applicant has filed Rejoinder Reply denying the contentions so made by the respondents in their Counter Reply and reiterating the averments already made in his Original Application.

5. I have heard the learned counsel for the parties and have also perused the pleadings on record.

6. The short question involved in this O.A. is whether the document/certificate (TC/Mark-sheet of Class VIII) filed by the applicant for obtaining the compassionate appointment is genuine and valid one or not? It is not the case of the respondents that the TC/Marks-sheet filed by the applicant is forged one or the same has been manipulated. From the perusal of entire Counter Reply filed by the respondents, it is no-where mentioned that the TC/Mark-sheet of Class VIII filed by the respondents is forged one. The only plea taken by the respondents that the statements made by the applicant during the course of enquiry are contradictory. During the course of hearing, learned counsel for the respondents submits that though the T.C/Marks-sheet filed by the applicant is genuine and valid one, but her statement during the course of enquiry was contradictory. It is settled principle of law that the genuineness of the document is much more important and having weightage over the statement made by the individual during the course of enquiry. Further from the perusal of impugned orders, it would reveal that the same are non-speaking order as the same has been passed without application of mind. Since the veracity of the document (TC/Mark-sheet of Class VIII) has not been doubted by the respondents in their Counter Reply, the present O.A. is liable to be allowed.

7. In view of the aforesaid discussions, the O.A. is allowed. The impugned orders dated 17.12.2016 and 13.6.2016 are quashed. The respondents are directed to consider the case of the applicant for appointment on compassionate ground in accordance with law in the next meeting to be held for the purpose of appointment on compassionate ground. This exercise shall be completed within a period of six months from the date of communication of this order.

(Dr. Murtaza Ali)
Member (J)

Girish/-