

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.525/2015

Dated this Thursday the 6th day of April, 2017

CORAM: HON'BLE DR. MRUTYUNJAY SARANGI, MEMBER (A)

1. Manjit Kaur Nelson,
Wd/o Late Alwyn Nelson
R/at Flat No.F, 2nd Floor,
Bldg., No.77, Railways Flats,
Vile Parle (E), Mumbai 57.
2. Simran Alwyn Nelson,
(daughter of Late Alwyn Nelson
and Manjit Kaur Nelson),
Through Manjit Kaur Nelson,
R/at Flat No.F, 2nd Floor,
Bldg., No.77, Railways Flats,
Vile Parle (E), Mumbai 57. *Applicants*

(By Advocate Shri R.G. Walia)

Versus

1. Union of India,
Through the General Manager,
Western Railway, Headquarters'
Office, Churchgate, Mumbai 20.
2. DRM (Divisional Railway Manager),
DRM's Office, Western Railway,
Mumbai Division, Mumbai Central,
Mumbai 400 008. *Respondents*

(By Advocate Shri S. Ravi)

ORDER

Per : Dr. Mrutyunjay Sarangi, Member (A)

The Applicant Nos.1 and 2 are the wife and daughter respectively of one Shri Alwyn Nelson who was working as a Head TTE in the Western Railway at the time of his death on 14.12.2014. They have filed this OA praying for the following

reliefs:

"8.a This Hon'ble Tribunal will be pleased to call for the records which led to the passing of the impugned orders dated 29.05.2015 and 17.04.2015 and after going through its propriety, legality and constitutional validity be pleased to quash and set aside the same.

b. This Hon'ble Tribunal will be pleased to order and direct the respondents to grant full 100% Terminal Dues of Late Alwyn Nelson to the applicants i.e. Family Pension, etc.

c. This Hon'ble Tribunal will be pleased to order and direct the respondents to consider the case of applicant No.1 for compassionate appointment and to grant her appointment on compassionate ground with full consequential benefits.

d. Any other or further order or orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

e. Cost of this Original Application may be provided for."

The Applicants had also prayed for the interim relief as follows:-

"9.a Pending hearing and final disposal of this OA it may be ordered and directed that applicants should be paid 100% family pension and other retirement benefits and not to grant any dues/benefits to any other person.

9.b Ex-parte Ad-interim and interim orders in terms of prayer 9(a) herein above."

Record shows that no interim relief was granted to them.

2. The brief facts of the case, as they appear from the OA, are as follows;

i) The Applicants have challenged the following two impugned orders dated 17.04.2015 and 29.05.2015 which read follows;

“No.EP/890/13/67/2015 Dt.17.04.2015
To,
Smt. Manjit Nelson
W/O L. Shri Nelson Alwyn Ex Hd TTE-CCG

Sub:Employment on compassionate ground – Case of Smt. Manjit W/OL Shri Nelson Alwyn Ex Hd TTE-CCG.

Ref: Your application dtd 30.03.2015.

In reference to the above, your application for employment on compassionate ground has been examined.

As per the documents submitted by you and Welfare Inspectors report, it is found that you are the second wife of the deceased employee and the first wife viz; Smt. Marry is alive and no divorce decree is obtained from the court of law before second marriage. It is also revealed that, the deceased employee has not taken permission from the Railway Administration about his second marriage.

As per extant policy issued by Railway Board, New Delhi vide letter No.E(NG)II/91/RC-1/136 dated 02.01.1992 (RBE No.1 of 1992), the compassionate appointment to the second widow and her children is not permissible.

As such, your request for appointment on compassionate ground has not been considered by the competent authority as per extant rules.

Please note and acknowledge.

Sd/-

(Arun A. Sonawane)

DPO-BCT

For $DRM(E)BCT$ ”

“No.EP/890/13/67/2015 Dt.29.05.2015

To,

Smt. Manjit Nelson

W/O L. Shri Nelson Alwyn Ex Hd TTE-CCG,

Sub:Employment on compassionate ground – Case of Smt. Manjit W/OL Shri Nelson Alwyn Ex Hd TTE-CCG.

***Ref: (I) This office letter of even no dtd 17.04.2015
(II) Your application dtd.23.04.2015.***

In reference to the above, your application for employment on compassionate ground has been re-examined.

However, it is reiterated again that, as per extant policy issued by Railway Board, New Delhi vide letter No.E(NG)II/91/RC-1/136 dtd. 02.01.1992 (RBE No.1 of 1992), the compassionate appointment to the second wife/widow and her children is not permissible.

As such, your request for appointment on compassionate ground has been considered by the competent authority as per extant rules.

Please note and acknowledge.

Sd/-

(Arun A. Sonawane)

DPO-BCT

For DRM(E)BCT”

ii) The Applicant No.1 had got married to the deceased Government employee on 18.04.1999 and the marriage was solemnized before the Marriage Officer under the Special Marriage Act and a certificate of marriage was issued. The Applicant claims that she was not aware that the deceased Government employee had already married. The Applicant No.2 was born to the Applicant No.1 and late Shri Alwyn Nelson on 20.02.1999. The Applicant claims that she was living with her

husband in the Railway Quarters and was granted Railway Medical benefits and Complementary Railway Passes as entitled for the wife of a Railway employee. When the husband of the Applicant No.1 expired on 14.12.2014, she approached the Respondent No.2's office for release of all the retirement dues but the respondents raised the issue of the first wife of Shri Alwyn Nelson being alive and not divorced with Shri Alwyn Nelson. On 20.03.2015, the applicant submitted a representation for compassionate appointment and also release of the terminal dues of her late husband. Through impugned letter dated 17.04.2015, the respondents rejected her claim by citing the policy issued by the Railway Board, New Delhi vide letter No.E(NG) II/91/RC-1/136 dated 02.01.1992 (RBE No.1 of 1992). The Applicant No.1 filed another representation for compassionate appointment on 23.04.2015 which was also rejected by the impugned order dated 29.05.2015. Aggrieved by this, the applicant has filed the present OA praying for the reliefs as enumerated at para 1 above.

3. The Applicants have based their prayer on the following grounds as mentioned in para 5 of

the OA and reproduced herein below; -

“a) The impugned action/order as stated in para-1 is illegal, wrong and malicious.

b) The impugned orders as challenged in para-1 have been passed without any application of mind and in fact the same is based and founded on false and untrue facts of earlier marriage of Mr. Alwyn being in existence.

c) The impugned orders as challenged in para-1 have been passed without any application of mind and in fact the same is based and founded on false and untrue facts of earlier marriage of Mr. Alwyn being in existence thus the impugned action/orders are arbitrary, illegal, malacious and whimsical.

d) There is a total abuse and misuse of the power by the respondents to deny dues and benefits to the applicants.

e) The Applicants have been granted only 30% of the dues which they are entitled to being the wife and daughter of late Alwyn Nelson.

f) There is absolute abuse and misuse of powers to deny the applicants their legitimate dues and also to deny Applicant No.1 her right to claim Compassionate Appointment in the Railways.

g) The impugned action/Order as challenged in para-1 are violative of Article 14, 16 & 21 of the Constitution of India.

h) There is/was no record in the railways prior to the death of Alwyn Nelson ever stating that he was still married to Ms. Mary Morris even after his marriage to Applicant No.1. Infact Ms.Mary Morris has never figured in any Railway Record.

i) Ms. Marry Morris, who is presently working in the Income Tax Department on the post of Income Tax Officer has herself never declared that she is the wife of Alwyn Nelson. In fact she has never adopted the surname of Late Alwyn Nelson, which is a normal and usual practice in India for a wife to take on her husband's name.

j) *The Respondents themselves recognized and accepted the applicant No.1 to be the wife of Alwyn Nelson and never raised any objection while extending the service benefits to her till the death of Alwyn Nelson.*

k) *Applicant No.1 married the Railway Employee on a clear declaration by him that he was a bachelor and in the absence of any protest from anybody, for years together the Respondents could not have involved Ms. Mary Morris, when she had specifically given in writing she had nothing to give and take with Late Alwyn Nelson. Moreover, the attitude of the Railway Respondents to somehow create confusion even though the said Ms. Mary Morris has not raised any objection for decades together shows the illegal and malicious intent of the Railways to deny the applicants their legal dues and the right of the applicant no.1 to be appointed on compassionate ground.*

l) *Applicant further states and submits that the contentions and averments as stated in para 1 and 4 of this Original Application may be treated as a part of para 5 i.e Grounds.”*

4. The Respondents in the reply filed on 22.01.2016 have contested the claim of the applicant on the following grounds:-

i) The Applicant has not made Ms. Marry Morris, the first wife of the deceased employee as a party respondent to the OA and, therefore, this OA should be dismissed on the ground of non-joinder of parties.

ii) As per the Indian Personal Law applicable to the applicant and to the deceased employee, the second marriage cannot be permitted without

Shri Alwyn Nelson getting divorced from his first wife, Ms. Marry Morris. The marriage of the Applicant No.1 with the deceased employee was solemnized during the pendency of the first marriage of the deceased employee with Ms. Marry Morris and no divorce was obtained before marriage with the Applicant No.1.

iii) As per the prevailing law, only the Family Court can decide on the issue of divorce between the deceased employee and Ms. Marry Morris. The issue of validity or legality of the second marriage of the deceased employee with the Applicant No.1 cannot be decided by the Central Administrative Tribunal.

iv) The Railway passes and medical identity card were issued to the Applicant No.1 purely based on information given by the deceased employee, since the administration was not informed about the circumstances relating to the second marriage of the deceased employee.

v) As per the existing rule contained in Master Circular No.16, Compendium on Appointment on Compassionate Grounds, the relevant Supplementary Circular No.5 reads as follows:

*“Subject: Appointment on compassionate grounds-Cases of Second widow and her wards.
Supplementary Circular No.5 to M.C.No.16.*

[No.E(NG)II/91/RC-1/136 dated 02.01.1992; RBE 1/92]

1. *It is clarified that in the case of Railway employees dying in harness etc. leaving more than one widow along with children born to the second wife, while settlement dues may be shared by both the widows due to Court orders or otherwise on merits of each case, appointments on compassionate grounds to the second widow and her children are not to be considered unless the administration has permitted the second marriage, in special circumstances, taking into account the personal law, etc.*

2. *The fact that the second marriage is not permissible clarified in the terms and conditions advised in the offer of initial appointment.*

3. *This may be kept in view and the cases for compassionate appointment to the second widow or her wards need to be forwarded to Railway Board.”*

vi) The Applicant No.1 is only entitled to a share of the settlement dues but is not entitled to a compassionate appointment since the Railways have not permitted the second marriage in special circumstances taking into account the personal law etc. The deceased employee was an Indian Christian and under Personal Law prevailing in India, the second marriage during the pendency of the first marriage is not permitted and the deceased employee had never informed or sought permission from the administration for his second marriage during the pendency of the first marriage.

vii) The Applicant No.1 has filed a copy of the petition for dissolution of her marriage with

Shri Alwyn Nelson, the deceased employee, in the year 2009 at the Family Court at Bandra, Mumbai but she has not produced any decree of divorce between the deceased employee and his first wife Ms. Marry Morris.

5. The Applicant had filed a Rejoinder on 20.07.2016 challenging the averments of the respondents in their reply. She has firmly reiterated that at the time of her marriage to late Alwyn Nelson he had declared himself to be a bachelor and unmarried. The applicant no.1 had married Shri Alwyn Nelson in the year 1999 and since then she was residing with him at the official residence as provided by the Railways. Her name was duly recorded in the official records of the Railways and therefore the respondents have acted illegally by raising the issue of the first wife namely, Ms. Marry Morris. The conduct of the respondents is mischievous and unfair on the face of the record. Moreover, Ms. Marry Morris herself has never claimed to be the wife of Shri Nelson since the year 1999 and has never contested the marriage of the Applicant No.1 to Shri Nelson, the deceased employee. Ms. Marry Morris is working in the Income Tax Department and as per the information of the

Respondent No.1 she had declared herself as unmarried in the official records. The deceased employee, Shri Nelson had declared himself to be unmarried at the time of his marriage to the applicant no.1 in the year 1999 and after their marriage the name of the applicant no.1 was duly entered in the official records which was never disputed by the respondents or by any other person till the demise of Shri Nelson. Ms. Marry Morris never approached the official respondents claiming to be the wife of Shri Alwyn Nelson at any point of time. The Applicant no.1 is the only wife of Shri Nelson and therefore is entitled to the terminal benefits as well as to the compassionate appointment.

6. The Respondents have filed a Sur-rejoinder on 18.08.2016. It is their contention that as per the records available and as per the Welfare Inspector's Report, the deceased employee was married to Ms. Marry Morris and the said marriage has not been annulled and she is staying separately. As per the prevailing Indian Personal law applicable to the applicant and the deceased employee, his second marriage is illegal and not permitted under the Indian Law without obtaining a legal divorce from a competent Family

Court.

7. The Applicant has relied upon **S.Suseela @ Mary Margaret Vs. Superintendent of Police & Anr. In WP No.15806/2015 pronounced on 18.06.2015** in which the Hon'ble High Court of Judicature at Madras had ruled that without the formal marriage, living together relationship has conferred every right for the aggrieved parties to claim their legal rights. In the said case the Hon'ble High Court had directed the second respondent namely, Principal Accountant General (A&E) Tamil Nadu to sanction family pension to the petitioner from the date of the death of the deceased Government servant.

8. During the arguments the learned counsel for the respondents have cited the judgment of the Hon'ble Apex Court in **State of Gujarat and Ors. Vs. Arvind Kumar T. Tiwari and Anr., (2012) 9 SCC 545** in which it was held that before a candidate is considered for a post he must fulfill the eligibility criteria. Similarly, in **Union of India & Anr. Vs. Shashank Goswami & Anr., AIR 2012 SC 2294** the Hon'ble Apex Court had held that compassionate appointment cannot be claimed as of right and claim for compassionate appointment has to be considered in accordance with

rules, regulations or administrative instructions taking into consideration financial condition of the family of deceased. The Hon'ble High Court of Judicature at Bombay, Aurangabad Bench in ***Mahatma Phule Krushi Vidyapeeth Vs. Ahmednagar Zilla Shetmajoor Union, 2016(2) ALL MR 337*** had quashed and set aside the judgment and order of the Industrial Court on the ground that the impugned order was passed out of sympathy towards the applicants and it was unsustainable in the light of Rules applicable to compassionate appointment.

FINDINGS:

9. I have heard the learned counsels from both the sides and perused the documents submitted by them. I have also gone through the original Service Book of the applicant. There is no mention of the name of the first wife i.e., Ms. Marry Morris in the Service Book. From the facts presented by both the sides, it clearly emerges that the deceased Government employee had married Ms. Marry Morris and this fact has come to the notice of the first applicant when the deceased employee had filed a divorce petition in the Family Court at Bandra, Mumbai in 2009. The Applicant has enclosed the Certificate of Marriage issued on 18.04.1998 by the Marriage

Officer, Bombay Suburban District (Bandra) (Annexure A-3). She has also submitted the Marriage Certificate for the marriage conducted on 19.05.1999 at Our Lady of Health Church, Sahar, Mumbai (Annexure A-4). In the Marriage Certificate issued by the Church, the Bridegroom Alwyn Nelson is mentioned as a bachelor. She has also enclosed the copies of the Railway passes and the Ration Card as well as the receipt of the Hindustan Petroleum Corporation to show that her name was mentioned as Manjit Kaur Nelson residing at F/77, Railway Quarters, 2nd Floor, Tejpal Road, Vile Parle. The same address is confirmed also in the copy of her Pass Book from the Punjab National Bank and the Punjab & Sind Bank. The marriage of the first applicant to the deceased Government employee is not in doubt through all the documents presented by her. Similarly the identity of the Applicant No.2, as the daughter of the first applicant and Shri Alwyn Nelson has also been established through the Certificate of Birth issued on 23.02.2000. The Applicant has also enclosed a letter purported to have been written by Ms. Marry Morris dated 23.03.2016 (Annexure A-10) which reads as follows:

“To
The Divisional Railway Manager (E)
Bombay Central, Mumbai.

Sir,

I, Ms. Marry Morris, i.e. 1st wife of Mr. Alwyn Nelson do hereby state that the divorce papers are not easily available with me.

Also I have no objection to Mrs. Manjit Nelson claiming whatever dues are available to her.”

10. With the clear indications that the first applicant is the wife of the deceased employee, namely, Shri Alwyn Nelson, the only question that remains is whether she can be termed as a legally wedded wife to entitle her to the retirement benefits and consideration for compassionate appointment. No decree of divorce between the deceased Government employee and the first wife Ms. Marry Morris has been produced by any of the parties. Neither the first applicant nor the respondents have produced any copy of the same. The first wife of the deceased i.e., Ms. Marry Morris, in her statement dated 23.03.2016 simply states that divorce papers are not easily available with her. This, from a legal point of view, cannot be taken as a conclusive proof that a divorce indeed took place between the deceased Government employee and Ms. Marry Morris. The report of the Welfare Officer which has been

produced by the respondents mentions about the first marriage of the deceased employee. The relevant paras are quoted here below;

“...After the death of the employee Smt. Manjit Nelson has visited the office for claiming the settlement dues of late Shri Nelson Alwyn (Being Wife). Her settlement forms were executed and the same were sent to DCTI GTR for getting the guarantors and witnesses signature. Mean time one of the co-worker and staff of DCTI GTR have verbally informed that Shri Nelson Alwyn has earlier married to one Ms. Marry Morris. He also informed me that before processing the case please check the Family details and also see whether the late employee Shri Nelson has taken the legal divorce from Ms. Marry Morris before marrying Smt. Manjit Kaur. This was checked and also discussed with Smt. Manjit Kaur and she has verbally told she was not aware that Shri Nelson has marred earlier. But she has told that there was some family dispute between her and the late employee. She had also informed that a divorce deed was filed in the family court Bandra vide petition No.A 2580 in the year 2009 to dissolve the marriage of her with the deceased employee. She was asked to check, whether she has any documentary evidence of Divorce of Late employee Shri Nelson and Ms. Marry Morris. She has informed that she dont have any documentary evidence of divorce of Shri Nelson and Ms. Marry Morris.

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Later on on enquiry it was known that Ms. Marry Morris the first wife of the employee is employed as an Income Tax Officer at Aaykar Bhuwan at Churchgate. She was contacted and she had informed that she don't want to discuss all these issues in her office. But she had agreed to meet me outside of her office. Accordingly it was decided to meet her at churchgate station. Myself and Smt. Padmini Swaminathan SWLI met her on 25.03.2015. She had agreed that the letter submitted by Ms. Manjit Nelson is written by her and she dont have nay objection if the dues are paid to Ms. Manji Nelson. On enquiry she had stated that she was married to Shri Alwyn Nelson on 02.05.1993 and got divorced after six months. It was an arranged marriage. On demand of her photo identity she has agreed to give the Identity card of her. The

identity card issued by the Addl. Commissioner of Income Tax (HQ) ADMN, Mumbai. The validity period of the I Card is mentioned as 31.03.2013. On enquiry about the validity period of I Card she had stated that the ID card is not renewed and she is using the same card. She again stated that she don't have the documents of her divorce. Presently she is single and not remarried after her divorce with Shri Alwyn Nelson. She is staying with her parents at Naigaon."

11. The Applicant has submitted the copy of the Petition filed by the deceased employee, Shri Alwyn Nelson, at the Family Court at Bandra, Mumbai on 25.11.2009 in the matter of dissolution of marriage solemnized between the Petitioner Shri Alwyn Nelson and the respondent Ms. Manjit Nelson (the applicant in the present OA). In the said Petition, the deceased Government employee, Shri Nelson has stated as follows:

"..2. The Petitioner state that prior to his marriage with the respondent, he was married with one Ms. Marry Morris on 02.05.1993. The marriage between the Petitioner and said Ms. Marry Morris did not continued for more than 2 months as she pleaded that she was forced to marry the petitioner. The Petitioner state that the said marriage was not consummated. The Petitioner further states that after parent intervention of both the parties in the matter, it was decided in the interest of both the family and persons that they should mutually divorce, subsequent to which the Petitioner and said Ms. Marry Morris got divorced. The Petitioner states that the respondent is aware of this event.

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21. *The Petitioner states that under the above mentioned circumstances it is now futile and no longer possible for the Petitioner to wait any longer for the respondent whose callous, indifferent and irresponsible behaviour has caused the Petitioner and his family to*

suffer deep agony and trauma. The Petitioner states that he made several efforts to salvage the dying situation, but instead of giving him support, the respondent advanced towards the total destruction of relationship. The Petitioner states that the Respondent's insensitive conduct has led to the deterioration of the sacrosanct relationship of husband and wife. Not only the respondent's conduct been unpardonable and unforgivable, but her willful and unjustifiable acts have inflicted pain and misery on the mind of the Petitioner and his child. Under these circumstances continuing the marital relationship is nothing but prolonging the Petitioner's agony. In these circumstances the Petitioner is entitled for a decree of divorce on the ground of cruelty."

12. However, no divorce has resulted from this Petition. Therefore, legally speaking the marriage between the first applicant and the deceased Government employee subsisted at the time of the death of Shri Nelson, on the assumption that since Shri Nelson and his first wife Ms. Marry Morris have stated they had a divorce although neither of them at any point of time has produced any decree of divorce from any Court of law. This has, therefore, given rise to a situation where the marriage between Shri Nelson and Ms. Marry Morris cannot be legally viewed as dissolved without a formal decree of divorce but both of them have agreed that they have divorced. On the other hand, a marriage between Shri Nelson and the Applicant No.1 has been conducted in a Church and has also been

solemnized under the Special Marriage Act for which a Marriage Certificate has been issued by the competent authority.

13. The Applicant has relied upon the judgment of the Hon'ble Madras High Court in ***S. Suseela @ Mary Margaret (supra)*** to claim that without formal marriage, a living together relationship has conferred every right for the aggrieved parties to claim their legal rights. However, the facts in the case of ***S.Suseela @ Mary Margaret (supra)*** are different with the vital element that the first wife of the deceased constable K.M. Stanley had already died and the formal dissolution of marriage between Shri Stanley and his first wife had taken place in the Court of the District Judge Erode. In the present case, however, there is no official record to show that the marriage between the deceased Government employee and the first wife had been formally dissolved. Learned counsel for the respondents has relied upon the judgments in ***State of Gujarat and Ors. Vs. Arvind Kumar T. Tiwari (supra)***, ***Union of India & Anr. Vs. Shashank Goswami (supra)*** and ***Mahatma Phule Krushi Vidyapeeth Vs. Ahmednagar Zilla Shetmajoor Union (supra)*** to support their claim that applicant no.1 is not eligible for

compassionate appointment. Apart from the above, in a catena of judgments, the Hon'ble Supreme Court has held that compassionate appointment cannot be claimed as a matter of right and it is not another method of recruitment. It is an exception to Constitutional provisions contained in Articles 14 and 16 of Constitution. (Chief

Manager, BSNL Vs. Rajesh, 2016 (2) SLR 28,

Santosh Kumar Dubey Vs. State of U.P. & Ors.,

2009 (2) SCC (L&S) 224 and MGB Gramin Bank Vs.

Chakrawarti Singh, 2013 (3) AISLJ 328.) In the light of these judgments, it is imperative that each claim for compassionate appointment has to be carefully examined on its merits as per rules.

14. The Rule with regard to claim of "second widow" on the pensionary benefits and compassionate appointment is quite clear. The respondents have rightly relied upon the policy issued by the Railway Board, New Delhi dated 02.01.1992 to deny the compassionate appointment to the applicant. The present case undoubtedly has presented a piquant situation where the marriage of the deceased Government employee with his first wife has not been legally dissolved although both of them have agreed that they are

divorced after two months of marriage which was not consummated. The claim of the first applicant that she was not aware of the first marriage till 25.11.2009 (the day the Petition for Divorce and Dissolution of Marriage was filed at Bandra Court) has not been contested by the respondents. On the other hand, the respondents have included the name of the first applicant as the wife of Shri Alwyn Nelson in all official records including the Railway Passes and Medical Passes. That being the case, the first applicant can be entitled to be treated as a second widow and following the Policy laid down in 1992, she will be entitled to part of the settlement dues. However, it is pertinent that the first widow Ms. Marry Morris never made any attempt to establish her claim as the wife of the deceased from 1993 to 2014. She has already relinquished her claim through the letter submitted by her on 23.03.2016. Moreover, as per the report of the Welfare Officer she has admitted to him about the relinquishment of her claim during his meeting with her on 25.03.2015. Under the circumstances, the first applicant will be entitled to the full pensionary benefits of the deceased Government employee. She will, however, not be entitled to

consideration for appointment on compassionate grounds since the second marriage was not permitted by the Railways and she is, in effect, the second widow of the deceased Government employee.

15. The Original Application is, therefore, **partly allowed.** The Respondents are directed to pass an order granting full retirement benefits of the deceased Government employee, Shri Nelson, to the first applicant within a period of twelve weeks from the date of passing of this Tribunal's order. She will however, not be entitled to consideration for compassionate appointment. No order as to costs.

(Dr.Mrutyunjay Sarangi)
Member (A)

dm.