

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00618/17**

Date of Order: 23/07/2018

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Pushpa Kumari, wife of Sahdeo Sah and daughter of Late Hiralal Sah, Resident of Budhi Jethwar, P.O.- Jethwar, P.S.- Terari, District- Bhojpur, Pin- 802204, at present residing at 852/C New Medical Colony, Khagaul, P.S.- Khagaul, District- Patna, Pin- 801105.

..... Applicant.

- By Advocate: - Mr. Subhash Kumar

-Versus-

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi- 110001.
2. The General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar)- 844101.
3. The Divisional Railway Manager, Danapur Division, East Central Railway, Danapur, Pin- 801105.
4. The Deputy Chief Engineer Construction, East Central Railway, Danapur- 801105.
5. The Senior Personnel Officer, Construction, East Central Railway, Danapur, Pin- 801105.

..... Respondents.

- By Advocate: - Mr. Priyank Samdarshi

**O R D E R
[ORAL]**

J.V. Bhairavia, J.M.:- In the instant OA, the applicant, who is the daughter of the deceased employee, has prayed for quashing of letter No. ECRS/CAO/CONE.CGA/104/15 dated 19.10.2016 as also

direction to the respondents to appoint her on compassionate ground on suitable post.

2. The brief facts of the case is that the father of the applicant expired on 03.09.2015 during his service leaving behind his widow, applicant and other children. It is submitted that after death of her husband, the widow Sunaina Devi (applicant's mother) submitter her application before the respondents to appoint her on compassionate ground and the same was rejected vide letter dated 30.05.2016 (Annexure A/2) citing sound financial condition of the family. Thereafter, the applicant herein after taking no objection from her mother, brother and sister on affidavit submitted her application before the respondents for her appointment on compassionate ground. But vide letter dated 19.10.2016 (Annexure A/4) the same was rejected without assigning any reason. It is submitted by her that she has no other source of earning to look after her minor children as during the life time of her father she was deserted by her husband when she was pregnant and since then she was living in her maike under the maintenance of her father. Therefore, she has filed this OA praying for compassionate appointment while giving sympathetic consideration in her case.

2. The respondents in their written statement have explained that the deceased employee has no liability and therefore there is no element of compassion. They have also given a chart indicating that none of the wards of the deceased including the applicant are dependent on the late employee because all of them

are enjoying their married life and living with their family. So far as the widow is concerned they have submitted that she has no liability and she is financially capable to lead her life comfortably in as much as she has own house as certified by the Circle Officer, Tarari, Bhojpur and consequent upon death of employee the applicant's mother has received the settlement dues amounting Rs. 14.62 lakhs and she is drawing family pension @ Rs. 6120/- + DR per month. They have also enclosed the statement of Mukhiya/Gram Panchayat, Jetwar, Tarari, Bhojpur as at Annexure R/6 to prove that the applicant was neither residing with widow nor she is the bread earner. The respondents have also referred to para 3 of RBE No. 3/2009 which is annexed at Annexure R/7 of WS to substantiate their point.

3. The respondents have also annexed some of the judgments of the Hon'ble High Court, Patna and this Tribunal in support of their case which are as follows:-

(i) CWJC No. 13806 of 2017 – order dated 06.11.2017 (R/1)

(ii) OA No. 479/2015 – order dated 06.03.2017 (R/2)

(iii) OA No. 193/2015- Order dated 17.02.2016 (R/3).

4. No rejoinder has been filed to rebut the submissions made by the respondents in their written statement.

5. I have heard the parties and perused the pleadings.

6. It is admitted position that the applicant's father, namely, Hiralal Sah, Khalasi/Construction, East Central Railway, Danapur, died on 03.09.2015 leaving behind his widow, three

daughters and one son whose status, as per the respondents, are as under:-

Sl. No.	Name of son/daughters	Married or unmarried	Remarks
01	Sunaina Devi	Widow	a. Settlement dues : Rs. 14.62 lakhs b. Family pension : Rs. 6120/-+DR per month (As per 6 th CPC. c. Living alone as per record d. Living in her own house. e. No financial liability
02	Smt. Pushpa KUmari	Married	Living with husband at the time of death of applicant's father
03	Sri Santosh Kumar	Married	Posted as Assistant Loco Pilot at West Central Railway
04	Smt. Kiran Kumari	Married	Living with husband
05	Smt. Radhika KUmari	Married	Living with husband

7. From the above chart, it transpires that none of the wards of the deceased is dependent on the late employee and the widow is financially sound to lead her life comfortably. Accordingly, request of the widow for her appointment on compassionate ground was rightly rejected by the respondents. It is also observed that vide Annexure R/6 the respondents have also proved that the applicant was neither residing with her mother nor she is the bread winner.

8. Furthermore, Para 3 of RBE No. 3/2009 which relates to compassionate appointment reads as follows:-

“ At the time of considering such requests for compassionate appointment, the Competent Authority should satisfy himself/herself on the basis of a balanced and objective assessment of the financial condition of the family that the

grounds for compassionate appointment in each such case is justified, having regard to the number of dependents, assets and liabilities left by the Railway employee. Income of any earning member of the family, as also his liability, including the aspect of whether the earning member is residing with the family of the deceased employee and whether he provides any support to other members of family.”

9. It is observed that the respondents have clearly followed the aforesaid RBE while rejecting the claim of compassionate appointment.

10. I also hold that the judgments enclosed by the respondents in their written statement are squarely applicable in this case.

11. In the instant case, the late employee's daughter (applicant herein) is married and settled. The widow has been sufficiently taken care of by the compensation paid to her and she is also being paid family pension regularly. I have also gone through the policy of compassionate appointment, this case does not fit in the scheme. Besides, it is settled law that compassionate appointment is not a hereditary right. It is an exception to the general rule of equality of opportunity under Article 14/16 of the Constitution in public employment to mitigate the family from suffering because of the loss of the bread winner. The Railway authorities have rightly rejected the case on merit. Accordingly, I do not find any reason to interfere with the action of the respondents. Hence, the OA is dismissed. No order as to costs.

[Jayesh V. Bhairavia]
Judicial Member

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