

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A./050/00551/2017

Orders reserved on : 30.07.2018

Date of orders : 21st August, 2018

CORAM

HON'BLE MR. JAYESH V. BHAIRAVIA, MEMBER [J]

Teresa, wife of Sri Ajeet Kumar Das, resident of Catholic Church, Khagaul, Police Station – Khagaul, District – Patna.

.....applicant

By Advocate : Shri Sushil Kumar

Versus

1. Union of India through its General Manager, East Central Railway, Hajipur, Vaishali, PIN – 844101.
2. Senior Divisional Officer, East Central Railway, Danapur, PIN – 801503.
3. Divisional Railway Manager, East Central Railway, Danapur, PIN 801503.
4. Smt. Kiran, wife of late Ram Chandra Das, resident of Loko Colony, House No.430, Danapur, Patna, :IN 801503.

..... Respondents.

By Advocates: Mr. Arun Kumar

ORDER

Per Jayesh V. Bhairavia, Member [J]:- The applicant has filed the instant OA for a direction upon the respondents to appoint her on compassionate ground on death of her father who was working as Khalasi with the respondents department.

2. The applicant's case in brief, is as follows :

The applicant's father, namely Ram Chandra Das was working as "Khalasi", he died in harness on 12.12.2008, leaving behind his second wife, one son and seven daughters, out of which two daughters, namely Teresa, the applicant herein and Sushila, were born with his first wife, i.e. late Resina and rest of them born with his second wife i.e. Smt.

Kiran, the Private Respondent No.4, herein.

3. The applicant pleaded that her father Ramchandra Das after death of his first wife Resina, (i.e. mother of the applicant), did not take care of the applicant her sister, Sushila and he married in the meantime, with the Private Respondent No.4, Smt. Kiran, who after the death of Ramchandra Das, tried her level best to grab all legacy of the said Ram Chandra Das and ultimately she succeeded in it and ousted the applicant with her sister. The applicant filed several representations to the concerned authorities, vide Annexure-A/1 for grant of DCRG benefit as also requested for appointment on compassionate ground, but no step had been taken by the respondents. Thereafter, she filed an application under Right to Information Act, 2005 seeking information about the fate of her representations [Annexure-A/2 series], and in response thereto, the Public Information officer supplied an information on 10.09.2015 [Annexure-A/3] wherefrom the applicant learnt that the entire DCRG amount has been given to the second wife, Smt. Kiran of late Ramchandra Das. The applicant submitted that there are catena of judgments of Hon'ble High Courts and other Hon'ble Courts where it has been observed that half of the terminal benefits should be disbursed between the two wives and their children. The applicant further submitted that her step brother and sister are too young to be appointed and she has no source of income to survive. Therefore, the l/c for the applicant submitted that the applicant is entitled for appointment on a compassionate ground.

4. In contra, respondents have filed their written statement and denied the contention of the applicant. The L/c for the respondents submitted that all the settlement dues are paid to the legal heirs of the

deceased employee. It is further contended that as per the existing rules and policies on the death of railway employee in harness, the appointment on compassionate ground is offered to the widow/widower or any ward of her/his choice. However, in the instant case the respondents have not received any application from the legal heirs of deceased railway employee for appointment on compassionate ground neither from the widow of so-called deceased employee nor from any ward with the consent of the widow.

5. The respondents further submitted that the record of Shri Ramchandra Das could not be traced in time, therefore, it could not be ever replied with regard to outcome of the representation of the applicant. However, they have submitted that recently the widow has filed a representation dated 24.01.2018 [Annexure-R/2] stating that after attaining the age of 18 years of her son, she will claim for compassionate appointment. It is further submitted that in the said representation of the widow, has also stated that the applicant, Smt. Teresa, and her sister, both are married and spending their lives happily. The respondents also pleaded that the Board has decided that it should be left to the discretion of the family concerned in case of death of ex employee to request for a job to either spouse or any child [whether son or daughter unmarried/married/divorced/widowed] subject to the condition that the concerned child will be the bread winner of the family concerned. vide Annexure-R/1. The respondents further submitted that as such the applicant was not dependant on her father at the time of he died and the applicant as well as her sister were got married during the life time of late Ramchandra Das, therefore, the applicant is not entitled for any relief as sought in this OA.

6. The applicant by way of filing a rejoinder, further submitted that the respondent at one point of time say that since the service records of her father was not available in their office, hence the respondents could not verify it and on the other hand contrary to the said contention they have stated that all the settlement dues are done as per rules. The applicant further pleaded that she and her sister has not received a single penny from her father's terminal benefits.

7. Heard the parties and perused the records. It reveals that the applicant's father namely Ramchandra Das who was working as "Khalasi" with respondents railway department. He died in harness on 12.12.2008. The applicant and one Sushila were born with first wife of the deceased Ramchandra Das. Subsequently, the said late Ramchandra Das got married to Smt. Kiran, i.e. respondent no. 4 herein. Out of the said wedlock of Late Ramchandra Das and Smt. Kiran, one son and five daughters born. It also reveals that during the life time of deceased railway employee the applicant and her sister Sushila got married and settled.

8. The respondents has placed copy of RBE No. 70/2014 dated 08.07.2014 on record as Annexure R/1 which pertains to consideration of application for appointment on compassionate ground of family members and on examination of the same it is noticed that for appointment on compassionate ground of family member of ex-railway servant the General Manager can consider for employment for married daughter if they satisfy themselves that the married daughter will be the bread winner of the family of the railway servant concerned. It also stipulates the condition that it is the discretion of the family concern in case of death of ex employee to request for a job to either spouse or any

child with the son or daughter (unmarried/married/divorced/widows) subject to the condition that concerned child will be the bread winner of the family of said late/ex railway employee.

9. In the present case, it is noticed that the applicant has contended that applicant and her sister were not look after by their step mother, therefore, they were forced to live with grandmother and she looks after to them, and they are not residing together.

10. It is also noticed that the applicant has not rebutted the contention of the respondents that applicant got married during the life time of her father and at present she is residing with her husband.

Since, the respondents have categorically submitted that they do not have any application on record with respect to claim on compassionate ground from the family members of late Ramchandra Das except the application dated 24.04.2018 submitted by the widow of late railway employee. The claim of the applicant cannot be decided in absence of any decision rendered by the respondents.

11. Moreover it is required to note that the appointment on the compassionate ground is governed under the policy framed by the employers/respondents. As per the said policy of the respondents the claim for appointment on compassionate ground by the family member of late railway employee needs to be submitted as per the discretion of the family and their wish. The father of the applicant died in the year 2008, the applicant got married during the life time of her father. The applicant and her step mother as well as step brother and sisters are not residing together. The widow i.e. spouse has first right to claim for appointment on compassionate ground or alternatively the family members with their consent can file or claim appointment on

compassionate ground only for one member of the family. It appears that the claim of the applicant is not in consonance with the policy as there is no consent of the spouse of late railway employee. Therefore, in absence of fulfillment such requirement under the policy for appointment the claim of the applicant cannot be said to be valid claim for appointment on compassionate ground as rightly contended by the respondent. Therefore, considering the material on record and the discussion made herein above the applicant fail to substantiate her claim and accordingly the OA is devoid of merit. Hence, dismissed accordingly.

[Jayesh V. Bhairavia]
Member [Judicial]

mps/-