

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No.050/00349/2017

Reserved on: 21.08.2018

Date of Order: 05.10.2018

C O R A M
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

1. Amit Raj S/o late Bishambhar Das, resident of Uma Charan Bose Lane, Jogsar, P.O- Kharmanchak, P.S- Adampur District- Bhagalpur.

..... Applicants.

By Advocate : Shri S.K. Bariar

-Versus-

1. Union of India through the General Manager, Eastern Railway, Fairly Palace, Kolkata.
2. The Chief Personnel Officer, E.R, Fairly Palace, Kolkata.
3. The Divisional Railway Manager, Eastern Railway, Malda.
4. The Senior Divisional Personnel Officer, Eastern Railway, Malda.
5. The Chief Workshop Manager, Eastern Railway, Jamalpur.
6. Rekha Devi @ Soren Uma Charan Bose Lane, Jogsar, P.O.- Kharmanchak, P.S.- Adampur, District- Bhagalpur.

..... Respondents.

By Advocate(s) :- Shri Bindhyachal Rai.

O R D E R

Per Mr. Jayesh V. Bhairavia, M (J) :- The main grievance of the applicant in this case is that the respondents may be directed to consider his representation for appointment on compassionate ground.

2. The brief facts of the case as submitted by the applicant is that the father of applicant namely late Bishambhar Das was working as a Technician Grade-II, WRS-2 Shop under Chief Works Manager, Jamalpur Workshops, Eastern Railway, Jamalpur and he died in harness on 13.04.2015 leaving behind two sons and one daughter from his first wife Smt. Asha Devi. The mother of applicant i.e the first wife of deceased employee was died on 12.09.1999 i.e prior to the death of his father. It is further contended that due to his father's some bad habits and secondly that

one lady namely Rekha Devi started to live with him, the mother of applicant did not bear this shock and died on 12.09.1999. Later on, his father made an affidavit declaring that he has solemnized marriage with one Rekha Devi Soren (as per affidavit Annexure A/6) and declared Mr. Amit Raj (son from second wife) entitled for appointment on compassionate ground in case of any mishappening with him. As per the applicant, she had been paid all the retiral benefits and being paid family pension. It is further submitted that before solemnizing second marriage a permission is required from the department but his father has not done the same therefore this second marriage is vague and not valid in the eye of law therefore second wife and their sons are not entitled for any relief. The applicant, however approached the department and made representations but that all went in vain. Therefore, the applicant submitted that without permission second marriage is not valid therefore the claim of son of Rekha Devi is not valid therefore he prays for appointment on compassionate ground.

3. The respondents, in their written statement, have denied the statements made by the applicant in his O.A and have submitted as below :-

3.1 Late Bishambhar Das, Ex. Ticket No.-23350/WRS-II died on 13.04.2015. He had solemnized marriage with Smt Asha Devi who died on 12.02.1991 much prior to late railway employee. After the death of his first wife he performed second marriage with Smt. Rekha Devi in the year 2001 during his service period. The said fact was declared by the deceased employee before the office of the respondents during his lifetime. After his death, the family of the deceased employee had submitted for no. 6 duly countersigned by contemporary of deceased employee for the purpose of settlement is stated as below :-

Sl.No.	Name	SOB	Relation
1	Smt. Rekha Devi	02.04.1977	Wife
2	Sanjay Kumar	20.04.1985	Son
3	Amit Raj	02.03.1988	Son
4	Sweety Kumari	Married	Daughter
5	Kumari Shristy	29.12.2008	Daughter

That, after the death of late Bishmbhar Das, Smt. Asha Devi (2nd wife), Amit Raj and Sanjay Kumar son from 1st wife Smt. Asha Devi have submitted pension forms duly witnessed and attested by SSE/WRS-II/ER, JMP and accordingly family pension was sanctioned to Smt. Rekha Devi i.e the second wife and share of DCRG has been paid to Smt. Rekha Devi 2nd wife and her minor daughter i.e 50% and 25% to Amit Raj and 25% to Sanjay Kumar (son from 1st wife) as per the extant rule and it was also pointed out that there is no provision of sharing the DCRG to married daughter.

- 3.2 It has been further contended by the I/c for respondents that as per the Railway Guidelines, compassionate appointment application should come from the widow that who will take the compassionate appointment, but till date no application has been submitted by the widow. If the widow submits the proposal/recommendation letter of any name or in the name of applicant then they are also entitled for the. It has further been submitted that the deceased employee was from Scheduled Caste Community. The I/c for respondents further contended that once the DCRG has been paid and family pension has been granted on the basis of family declaration and Form No. 6 now there is no question of any enquiry about the permission of 2nd marriage. Since, no application from the widow has been received till date there is no question arise

to give appointment to any member of family. Therefore, this O.A is liable to be dismissed.

4. Heard the parties and perused the records.

5. In the present case, it is noticed that the father of the applicant namely late Bishambhar Das was working as a "Technician Grade-II-, WRS-2 Shop under Chief Works Manager, Jamalpur Workshops, Eastern Railway Jamalpur. He died in harness on 13th April 2015, leaving behind his second wife namely Smt. Rekha Devi Soren and two sons and two daughters of his first wife. It further revealed from the records that the first wife i.e Asha Devi died on 12.02.1999 much prior to the death of his father. It is further noted that after the death of his first wife, the deceased railway employee during his lifetime had informed the railway authority about it and subsequent to it he married with one Smt. Rekha Devi Soren. The Railway had accepted the said declaration and on receipt of application/claim from the dependents of deceased railway employee, the respondents had settled all the retiral dues and DCRG distributing among the survived dependents and the family pension has been granted to the widow of late Bishambhar Das i.e Smt. Rekha Devi Soren. The applicant herein is the son of first wife of deceased railway employee.

On death of his father the applicant had submitted an application for appointment on compassionate ground being dependent and family member of the deceased railway employee. The name of all the dependents family members were declared and accepted by the railway authority. As per the policy No. 17/2014 dated 08.07.2014, for appointment on compassionate ground it is discretion of the family concerned to request for a job for any of dependent family member in case of death of a railway employee.

6. It is noted that the application submitted by the applicant for appointment on compassionate ground has not been considered by the

respondents on the ground that the wife of ex-railway employee had not submitted any application or representation or any concerned letter for appointment of applicant no.1. According to the respondents, the application should be submitted by either any family member or herself with the consent of all the family members in terms of the policy invoked. In this regard, l/c for applicant submitted that the second wife of his late father i.e Smt. Rekha Devi Soren is not a legally welded wife therefore recommendation or consent from the said Rekha Devi does not require for consideration of the application of the applicant.

7. It is the grievance of the applicant that his case ought to have been considered as per the policy for appointment on compassionate ground. On examination of material on record, it is noticed that as per the policy for appointment on compassionate ground as referred in policy no, 70/2014, it is the discretion of the family concerned to recommend or sponsor the name of any of the dependent member who can be bread earner of the family. As per the service record maintained by the respondents of deceased railway employee, the applicant alongwith his second wife and other children have been recognized as the family member of late Bishambhar Das. Therefore, as per the terms of the policy invoked, the consent of spouse/widow of late Bishambhar Das is required for consideration of any application particularly of the applicant for appointment on compassionate ground. The applicant ought to have filed his application in terms of the said policy. It is required to note that a declaration of legal heirs and entitlement for appointment on compassionate ground. This Tribunal has no jurisdiction to decide the succession of deceased railway employee. If there is any dispute arises, in this regard the submission of applicant that the consent or recommendation of the widow of late deceased railway employee is not mandatory is not maintainable in view of the policy as referred hereinabove. In the circumstances, I find no infirmity

in the decision of the respondents for not considering the application of the applicant for appointment on compassionate ground. Therefore, the O.A being devoid of merit, is dismissed with no order as to costs. It is made clear that it is open for the applicant to submit his application in terms of policy i.e RBE No. 70/2014.

[Jayesh V. Bhairavia]
Member (J)

/mks/

