

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Dated: This the 14th day of February 2019

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Original Application No. 330/00302/2016

Anoop Baruwa S/o Late Sushil Kumar Baruwa R/o 122/230 Fazalganj
District Kanpur Nagar.

.....Applicants

By Advocate: Shri Vinod Kumar

Versus

1. Union of India through General Manager North Central Railway, Subedarganj, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. Smt. Deepa Baruwa w/o Late Sushil Baruwa, R/o 27-A- Village Khizrobad New Colony, New Delhi.

. . . Respondents

By Adv: Shri Satya Prakash

ORDER

1. The present Original Application has been filed by the applicant Anoop Baruwa son of deceased Sushil Kumar Baruwa under section 19 of Administrative Tribunals Act, 1985 seeking following reliefs:-

“(i) to issue an order or direction in the suitable nature quashing the impugned order dated 06.11.2015 issued from the office of respondent No.2 (Annexure No. A-1) to this Original Application.

- (ii) To issue any other suitable writ, order or direction directing the respondent department to consider the claim of applicant for grant of compassionate appointment under the dying in harness rules within stipulated period which may be specified by this Hon'ble Court.
- (iii) Award the cost of this original application to the applicant".

2. Case of applicant is that his father Sushil Kumar Baruwa died on 30.8.2012 while holding the post of Senior Divisional Engineer, North Eastern Railway, Kanpur leaving behind two widows namely Deepa Baruwa (the first wife and mother of applicant) and Sangeeta Baruwa who give birth to two children. After the death of his father, his step mother Sangeeta Baruwa filed an application on 30.3.2013 requesting the respondent department to appoint the applicant on compassionate basis, which was rejected by the respondents vide impugned order dated 06.11.2015 on the ground that applicant Sangeeta Baruwa had concealed the factum pendency of the case with the first wife in the Court and in the matter of compassionate appointment would be looked into after the disposal of the said case. The impugned order dated 06.11.2015 reads as under:-

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3. The official respondents in their counter affidavit support the impugned order on the ground that litigation is going on between the two widows. The first wife namely respondent Deepa Baruwa in her counter affidavit has denied the factum of her divorce from deceased Sushil Kumar Baruwa and taken the objection that compassionate appointment of the applicant be considered and decided after her consent and not otherwise.
4. I have heard and considered the arguments of learned counsels for the parties and gone through the material on record.
5. From the arguments of learned counsels and material on record, it transpires that there are two OAs pending between the parties. One O.A. relates to matter of compassionate appointment which is the subject matter of the present O.A. The second O.A. relates to the dispute between the two wives of deceased Sushil Kumar Baruwa with regard to his retiral benefits. The subject matter in both the O.As are

different and have no connection with each other. The reasons given by the respondents for keeping in abeyance the matter of compassionate appointment to applicant has no connection with the dispute between the two wives regarding the retiral benefits of deceased Sushil Kumar Baruwa. The reasoning given by the respondents has no substance and, therefore, the impugned order cannot be sustained.

6. Respondents have inter-connected the disputes pending in both the OAs to keep the question of compassionate appointment in abeyance. The matter of compassionate appointment cannot in any manner whatsoever be made dependent on the decision as to which of the wives is entitled to the retiral benefits. Therefore, the reasoning given in the impugned order that applicant concealed the pendency of other case cannot be sustained.

7. In circumstances of the case, the impugned order dated 06.11.2015 is set aside. The matter is remanded back to the respondent No.2 to re-consider and decide the application of the applicant for compassionate appointment afresh without being influence by the subject matter of other O.A. and pass a reasoned and speaking order within a period of 2 months from the date of receipt of this order. Accordingly, O.A. is disposed of. No order as to costs.

(RAKESH SAGAR JAIN)
MEMBER-J

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