

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/914/2012

Date of Reserve:01.03.2019

Date of Order: 27.03.2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

1. R.Nookamma, aged about 47 years, W/o.late R.Krishna, Ex-Safaiwalla, CHF/PSA, At/PO-New Colony, Kasibugga, Dist-Srikakulam (AP).
2. Kesavarao, aged about 19 years, S/o. late R.Krishna, At/PO-New Colony, Kasibugga, Dist-Srikakulam (AP).

...Applicants

By the Advocate(s)-M/s.K.P.Mishra
S.Mohanty
T.P.Tripathy
L.P.Dwivedy

-VERSUS-

Union of India represented through;

1. The General Manager, East Coast Railways, Chandrasekharpur, Bhubaneswar, Dist-Khurda, Odisha.
2. Divisional Railway Manager (P), Khurda Road, Jatani, District-Khurda, Odisha
3. Chief Personnel Officer, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, PIN-751 016, Dist-Khurda, Odisha.

...Respondents

By the Advocate(s)-Mr.S.K.Nayak

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application, applicant no.1 claims to be wife of the deceased railway employee, R.Krishna and the applicant no.2 is her son. They have approached this Tribunal being aggrieved by the letters dated 30.03.2010(A/5) and dated 05.09.2012(A/6) by virtue of which request of the applicant no.1 for her appointment on compassionate ground has been rejected by the railway authorities.

2. The facts of the matter, as revealed from the O.A. are that applicant no.1's husband while working as Safaiwala under the respondent-railways passed away on 25.03.2000. At that point of time, applicant no.2 was a minor being seven years old. In view of this, applicant no.1 submitted an application for employment assistance on compassionate ground, which was rejected vide communication dated 30.03.2010(A/5) on the ground that there is no proof that the deceased employee had re-married for the third time with the permission of the railway administration. Further, as per communication dated 5.9.2012(A/6), it has been communicated to the applicant that her request for compassionate appointment is not permissible under the Est.Srl.No.20/92.

3. Hence, this Original Application with the prayer for quashing the impugned communications dated 30.03.2010(A/5) and dated 5.9.2012(A/6) with direction to respondents to give appointment to the applicant no.2 under rehabilitation assistance scheme.

4. In support of the relief claimed, it has been submitted that after the death of applicant no.1's husband, applicant no.1 was allowed by the railway administration retention of railway quarters vide A/2 dated 29/30.8.2006. In the Legal Heir Certificate issued vide A/3, the name of applicant no.1 is found place as the wife of the deceased railway employee. Besides, the railway administration has granted family pension vide PPO No.12020035206(A/4) in favour of applicant no.1, her relation with the pensioner being mentioned as wife. Therefore, according to applicants, it is not proper on the part of the railway administration to state that the applicant no.1 is the third wife of the deceased railway employee.

5. Contesting the claims of the applicants, respondents have filed a detailed counter. They have submitted that the railway employee expired on 25.3.2000 and the applicant no.1 preferred applications for compassionate appointment on 6.9.2001/9.10.2001 which were regretted on 30.03.2010, whereas this O.A. has been filed in the year 2012. According to respondents, the object for which compassionate is provided to the dependant family members is defeated, as in the instant case, by the efflux of time. According to respondents, S.E.Railway Estt.Srl. No.20/1992 stipulates that the railway employee dying in harness, leaving more than one widow along with the children born to the 2nd wife, settlement dues may be shared by both the widows either due to court's order or otherwise on merit of each case, but appointment on compassionate ground to the second wife or her children is not be considered unless the Railway Administration has permitted second marriage. Respondents have pointed out that the counter filed by one Smt.Rusuva Jayamma before the junior Civil Judge in S.O.P. 01/2004 (R/4) goes to show that the applicant no.1 is the 3rd wife of the deceased railway employee. According to respondents, as per the report of the Staff & Welfare Inspector, the ex-employee had three wives, i.e., N.Savitri (1st wife), R.Jaya @ R.Jayalaxmi (2nd wife) and R.Nookamma (3rd wife). Respondents have pointed out that the applicant no.1 claiming to be the 2nd wife of the deceased railway employee has submitted application dated nil vide R/6 praying for fixing a date of inquiry as she was unable to submit the legal court notice for separation of the 1st wife of the ex-employee. They have further pointed out that as per the affidavit submitted by 1st wife, Smt.Neelapu Savitri is the 1st wife and as per ration card & voter identity card, R.Jayalaxmi is the 2nd wife and to substantiate their contentions, the respondents have submitted copy of

affidavit, ration card and voter identity card vide A/7, R/8, R/9/, R/10 & R/11, respectively. They have pointed out that since no application seeking compassionate appointment has ever been made by applicant no.2, the question of considering his case does not arise.

6. Heard the learned counsels for both the sides and perused the materials placed on record.

7. On a perusal of Annexure-R/4, it is seen that applicant no.1 herein along with others had filed S.O.P. 01/2004 before the Junior Civil Judge, Palasa in which Rusuva Jayama was the respondent. In the counter filed by Rusuva jayamma, she has stated to be the second wife of late Rusuva Krishna and Rusuva Nookamma (applicant no.1 in this O.A.) as the first wife of said Rusuva Krishna. Further, Russuva Jayamma has stated that she relinquished her right upon the death benefits and job under compassionate fgounds from the railway Deptment of late Rusuva Krishna and left towards the share of the petitioners, i.e., Rusuva Nookamma and her children.

8. Annexure - R/6 submitted by the applicant no.1 to the railway authorities requesting to fix up another date for inquiry, she has signed the application stating to be the 2nd wife of the deceased railway employee. Annexure-R/7 is an Affidavit executed by one Neelapu Savitri in which it has been deposed that she is the divorced wife of late Rosuva Krishna and the divorce deed was executed in the year 1982. Now she has married to one Nageswar Rao.

9. Annexure-R/8 is a House Hold Card issued in favour of Rosuvu Jaya against which Father/Husband's Name has been written as Krishna. Similarly, in Voter Identity Card issued in the name of Jayalaxmi Rusuva, the name of her father has been written as Krishnarao. Annexure-R/10 which is a household

card issued in favour of applicant no.1 Nukamma, her father/husband's name has been mentioned as Krishna Rao. Annexure-R/11 is a Voter Identify Card issued in favour of the applicant, Nookama Rusuva as the wife of Krishnaraao.

10. Applicants by filing rejoinder have not disputed the genuineness of both those documents, particularly, Annexure-R/4 and R/6 which stand self-contradictory. Secondly, a plain reading of Annexure-R/4, R/6 and R/7 would make it clear that the deceased employee had three wives. However, whether the applicant no.1 in the instant OA is the first wife of the deceased employee is yet to be established by either of the parties. Respondents have also not produced any family particulars which might have been submitted by the deceased employee during the course of his employment nor the applicants have submitted any incrementing documents to establish that applicant no.1 is the first wife of the deceased railway employee. There is no doubt by the operation of Establishment Erl.No.20/1992 applicant no.1 has been granted family pension, apart from allowing her retention of railway quarters, but that by itself is not enough testimony to come to a conclusion that the applicant no.1 is the first wife. Respondents have pointed out that applicant no.2 has not submitted any application for compassionate appointment and therefore, the question of considering his case does not arise. This assertion stands unrefuted.

11. In view of the above, this Tribunal is of the opinion that in case an application is made by applicant no.2 seeking compassionate appointment along with unimpeachable documentary evidence that that applicant no.1 is the first wife of the deceased railway employee, the respondent-railways shall consider his case in the light of the extant rules and instructions on the subject, provided they are satisfied with the available documents and/or

declaration of family particulars by the deceased employee while in service and upon such inquiry as may be required for the purpose that the applicant no.1 is the first wife of the deceased railway employee and pass appropriate orders within a period of 120 (one hundred twenty days) from the date of receipt of this order.

12. In the result, the O.A. is allowed to the extent indicated above, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

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