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(10)

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

KOLKATA

An Application Under Section 19 of the Administrative Tribunal Act, 1985

O. A. No. 350/2072 of 2015

BETWEEN

1. Aleya Sarkar, Second wife
of Late Arjiman Sarkar,

2. Bandan Sarkar, Son of
Late Arjiman Sarkar,

..... both of Village and Post
Office - Manaspur, Police
Station - Chinsurah, District -
Hooghly, PIN - 712123.

..... Applicant

- V E R S U S -

1. Union of India, service
through the General Manager,
Eastern Railways, having its
office at 17, Netaji Subhas
Road, Kolkata - 700 001.

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2. The Divisional Railway Manager, Howrah Division, Eastern Railways, having his office at D.R.M. Building, Howrah, District - Howrah.

3. The Additional Divisional Railway Manager, Eastern Railway, Howrah, having his office at D.R.M. Building, Howrah, District - Howrah.

4. The Senior Divisional Personnel Officer, Eastern Railway, Howrah, having his office at D.R.M. Building, Howrah, District - Howrah.

..... Respondents.

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/2072/2015

Date of Order: 30.11.2018

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

Aleya Sarkar & Anr.

-vs-

Eastern Railway.

For the Applicant(s): Mr. G. Mohiuddin, Counsel

For the Respondent(s): Mr. A. K Banerjee, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Id. Counsel appearing for both the parties.

2. This O.A was filed on 23.12.2015 and after issuance of notice, reply and rejoinder were filed and the matter was ripe for hearing and today it was taken up for hearing.

3. By drawing my attention to the order passed on 19.10.2015 (Annexure A-12), Id. Counsel for the applicant submitted that the documents annexed at Annexure A-5 clearly shows that the Applicant No. 1 has been granted the benefits due to the death of her husband, therefore, the order under Annexure A-12 should not stand in the eye of law and it should be quashed.

4. On the other hand, Mr. A. K Banerjee, Id. Counsel for the official respondents forcefully argued and brought to my notice the order dated 19.10.2015 and submitted that as per the RBE No. 1/1992, certain conditions have been stipulated for grant of benefits of compassionate appointment, as well as pensionary dues to the legal heirs of the deceased Railway employee. In this regard, Id. Counsel for the respondents brought to my notice the contents of internal page 2 of Annexure A-12, which reads as under:

“In this regard RBE No. 1/1992 speaks as under:

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'It is clarified that in the case of Railway employees dying in harness etc, leaving more than one widow along with children born to the 2nd wife, while settlement dues may be shared by both the widows due to Court Orders or otherwise on merits of each case, appointments on compassionate grounds to the 2nd widow and her children are not to be considered unless the administration has permitted the second marriage, in special circumstances, taking into account the personal law etc.'

No record is available in the office which proves that the deceased employee, Lt. Arjiman Sarkar took permission for the marriage with Smt. Aleya Sarkar.

Secondly, though RBE no. 70/2014 Railway 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.

As per the record available, Shri Kundan Sarkar, son born from the 1st wife through his plain paper appeal dated 01.02.2010, has requested for appointment on compassionate ground against the death of Lt. Arjiman Sarkar. Similarly, Smt. Aleya Sarkar, 2nd wife of the deceased has also applied vide her appeals in plain paper dated 24.10.13, 02.11.13 and 04.12.14 (annexed as Annexure-7,8&8 respectively) in favour of her son Shri Bandan Sarkar. As such there are rival claims for appointment on compassionate ground against the death of Lt. Arjiman Sarkar.

In view of the above, the applicant Smt. Aleya Sarkar has to submit documentary evidence in favour of her marriage with Lt. Arjiman Sarkar which proves that this marriage solemnized after the death of the 1st wife Lt. Serina Sarkar. Secondly, a consensus decision is required to be taken by the family of the deceased for appointment on compassionate ground. Thereafter, an appeal, in the prescribed format, may be submitted to this office through proper channel so that the decision for appointment on compassionate ground may be taken by the competent authority on merit, as per extant rules.

This disposes of the representation dated 04.12.14 of Smt. Aleya Sarkar as directed by Hon'ble Tribunal vide its judgement dated 03.09.15 in O.A No. 350/01268/2015."

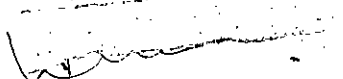
5. I am quite satisfied with the submission made by Id. Counsel for the respondents, therefore, I think it appropriate to dispose of this O.A by granting one more opportunity to the applicant to give documentary evidence in favour of her

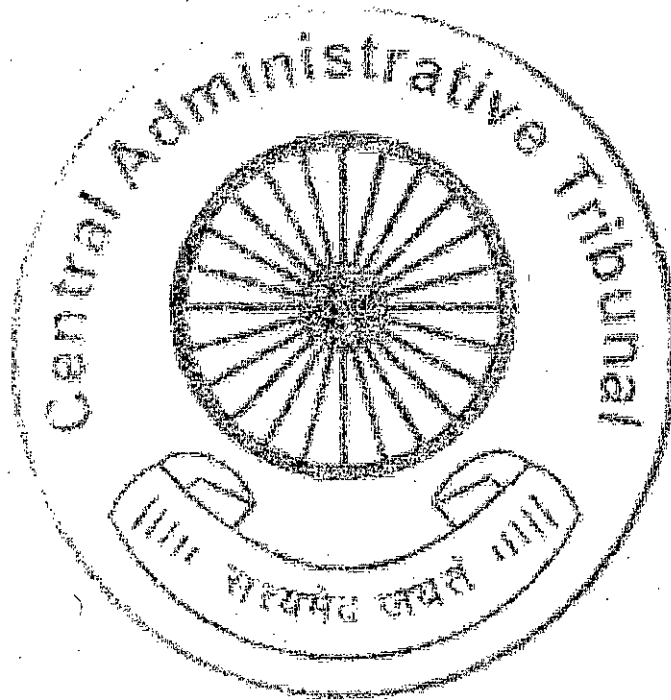
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marriage with the deceased Government employee, as well as consensus decision taken by the family members of the deceased employee to nominate one family member, within 3 months from the date of receipt of a copy of this order and in case any such representation is preferred, by annexing all the documents, then the respondents will consider the same and will take an action in this regard keeping in mind the earlier order passed on 19.10.2015 under Annexure A-12.

6. With aforesaid observations and directions, the O.A is disposed of. No costs.

7. Copy of this order be made over to the Ld. Counsel for both the parties.


(A.K Patnaik)
Member (J)



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