

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.4430/2018

Friday, this the 13th day of September 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Sudhir Kr. Sharma,
S/o late Sukhdev Sharma,
Aged about 29 years,
R/o K-3/218A, Vijay Nagar,
Mohan Garden, Uttam Nagar,
New Delhi-59

- Applicant

(By Advocate: Mr. Ranjit Sharma)

Versus

1. The General Manager,
Northern Railway,
Baroda House, New Delhi-1
2. Sunil Kr. Sharma,
R/o K-3/218A, Vijay Nagar,
Mohan Garden, Uttam Nagar,
New Delhi-59
3. Kazoma Devi,
R/o K-3/218A, Vijay Nagar,
Mohan Garden, Uttam Nagar,
New Delhi-59

- Respondents

(By Advocates: Mr. KK Sharma for R-1 and Mr. Sunil Singh for R-2 and 3)

O R D E R (ORAL)

This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

- “i) direct respondent no.1 to cancel appointment of respondent no.2 as carpenter and consider the applicant for a suitable post on compassionate grounds;

AND/OR

- ii) pass such other order/s as may be deemed fit & proper.”

2. The applicant in this OA has mainly sought a direction to the respondents to cancel the appointment of respondent no.2 on compassionate ground and consider his case for appointment to suitable post. The applicant has alleged that the respondent no.2 – Sh. Sunil Kr. Sharma had obtained our signatures on various papers and utilized it for getting job on compassionate ground and that the said respondent had also stopped helping the family members of the deceased employee after receiving money and getting job on compassionate ground. The applicant has submitted that he had also sent a legal notice dated 28.12.2017 but to no avail. He has thus filed the present OA.

3. The respondents, while controverting the aforesaid averments of the applicant, has filed the CA in which they are able to show from Annexure R/1 that legal heirs/survivors of deceased employee, respondent no.3, sons, namely, Sunil Kumar Sharma (respondent no.2), Rajiv Sharma, Sudhir Kumar Sharma (applicant herein), Raj Kumar and three daughters Suman Sharma, Kalpana Sharma and Swati Sharma had given NOC in favour of the respondent no.3 to the effect that they have no objection if the Railway Department may transfer the all amount of our father in the name of our mother, namely, Smt. Kozoma Devi (respondent no.3 herein) and that we will not raise any claim

in future for the same. Hence, they have rightly submitted that the applicant has now no locus standi to go back from his NOC.

4. The respondents have also annexed an affidavit given by the wife of the deceased employee (respondent no.3) to the Railway Authority at Annexure R/2. On perusal of the said Annexure R/2, it is clear that respondent no.3 has stated on affidavit that the respondent no.2 is looking after her and her daughter Ms. Swati and that the respondent no.2 was appointed as compassionate appointment on her sweet will. The respondent no.3 on affidavit had further submitted that she had equally distributed all the amounts received on the demise of her late husband among the family members of the deceased employee. Hence, the plea of the applicant that respondent no.2 is not looking after the family members of the deceased employee, is found to be incorrect.

5. However, as regards the plea of the applicant that the respondent no.2 had deceitfully obtained his signature for the appointment on compassionate grounds, it is not within the competent jurisdiction of this Tribunal to assess the correctness of the affidavit submitted by the respondents no.2 in the light of the decision of the Hon'ble High Court in the case of **Nanak Chand v. Delhi Jal Board**, 2007(140)DLT 489 which reads as under:-

“14. The mandate of the Supreme Court is very clear from the aforesaid judgments that it is not for the High Court in exercise of its powers under Article 226 of the Constitution of India to interfere with the decision arrived at by the competent authority while considering the eligibility of an applicant for appointment on compassionate basis and all it can do is to see whether the decision of the competent

authority is vitiated. Having scrutinized the cases in hand in the aforesaid background, this Court does not consider it appropriate to interfere with the findings of facts and the conclusion arrived at by the competent authority.”

Hence, in view of the aforesaid judgment, this Tribunal does not find any ground to interfere in this matter as it is not within the jurisdiction of the Tribunal to examine the validity of the affidavit submitted by the respondent no.3.

6. In view of the aforesaid facts and circumstances of the case, we do not find any merit in the OA and the same is dismissed. No order as to costs.

(Nita Chowdhury)
Member (A)

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