

Central Administrative Tribunal
Patna Bench, Patna.
[Circuit Bench at Ranchi]

O.A./051/00866/2018

Date of Order :- 15.10.2019

C O R A M

Hon'ble Shri Jayesh V. Bhairavia, Member [J]
Hon'ble Shri Dinesh Sharma, Member [A]

P. Kamala Kumari, daughter of late Bh. Saroja, aged about 34 years, Ex-Peon under Senior Divisional Personnel Officer, CKP Division, S.E. Railway, Chakradharpur, PO & PS – Chakradharpur, District – Singhbhum [West], 833102.

....Applicant

By Advocate : Mrs. M.M.Pal Sr. Advocate with Ms. R.Pandey

Vs.

1. Union of India, through the General Manager, S.E. Railway, Garden Reach, PO & PS – Garden Reach, Kolkata-43.
2. Chief Personnel Officer, S.E. Railway, S.E. Railway, Garden Reach, PO & PS – Garden Reach, Kolkata-43.
3. Divisional Railway Manager, S.E. Railway, CKP Division, Chakradharpur, PO & PS – Chakradharpur, District – Singhbhum [West] – 833102.
4. Divisional Railway Manager [P], S.E. Railway, CKP Division, Chakradharpur, PO & PS – Chakradharpur, District – Singhbhum [West] – 833102.

..... Respondents.

By Advocate : Shri Prabhat Kumar

O R D E R (ORAL)

Per J.V. Bhairavia, M [J] :- The applicant has filed the instant OA for quashing and setting aside the impugned order dated 10.07.2018 [Annexure-A/12] whereby her claim for appointment on compassionate ground has been denied by the Divisional Railway Manager, Chakradharpur. The applicant has further prayed for a direction upon the respondents to pass final order for her appointment on compassionate ground.

2. It is the case of the applicant that her late father, B.H.L.Rao was a Railway employee who died on 16.10.1989 and consequent upon his death, her mother late B.H. Saroja was appointed as Peon on 02.04.1993. Late B.H. Saroja while working as Peon was also died in harness on 27.11.2013, survived by one unmarried son and the applicant.

3. The applicant is the married daughter of the deceased B.H. Saroja. She was dependent on her mother as she has no means of livelihood since her husband is unemployed. Her claim for appointment on compassionate ground was initially rejected by the respondents, vide order dated 16th February, 2015 against which the applicant had approached this Tribunal by way of OA/051/00142/2016. The said OA was disposed of, vide order dated 18.09.2017 [Annexure-A/9] directing the Divisional Railway Manager, Chakradharpur to consider her case for appointment on compassionate ground within a period of ten weeks. In compliance thereof, the respondents vide impugned order dated 10.07.2018 [Annexure-A/12] rejected the claim of the applicant for appointment on compassionate ground on the ground that the DRM, Chakradharpur has no power or authority to provide appointment on compassionate ground to a married daughter. The Railway Board's letter dated 08.07.2014 [RBE No.70/2014] specifically stipulates that only the General Manager can consider for employment of married daughter, if they satisfy themselves that the married daughter will be the bread winner of the family of the Railway servant concerned and this discretionary power has not been re-

delegated to any other authority. It is also stated by the DRM that her case was already put up before the competent authority who has regretted the same.

4. The Id. Sr. Counsel Smt. M.M.Pal further submitted that the Respondent No.3, i.e. the DRM, Chakradharpur has not supplied any paper or decision taken by the General Manager whereby the claim of the applicant has been regretted. The representation submitted by the applicant before the General Manager has never been considered nor any order has been passed since nothing has been communicated to the applicant. Therefore, the applicant is not aware about the reason for not granting the benefit of compassionate appointment to the married daughter. The Id. Senior Counsel further submitted that the applicant has submitted her representation dated 25.09.2017 before the Divisional Railway Manager stating therein that as per the new instructions issued, vide RBE No.70/2014, the married daughter is also entitled to claim employment on compassionate ground and the General Manager can consider such request, if they satisfy themselves that the married daughter will be the bread winner of the family and wholly dependent on the deceased employee at the time of death of the later. The applicant further submitted that she was wholly dependent upon her mother and only bread winner of the family and the fact that the dependency and the genuineness of her claim has not been established by the concerned railway official during the enquiry. It is also submitted that many such cases in the past, have been considered and the married daughters have been provided

employment on compassionate ground. The applicant submitted that her case has not been considered in terms of RBE No.70/2014, therefore, her case is required to be re-examined by the General Manager in terms of the aforesaid RBE No.70/2014.

5. The respondents have filed their written statement and denied the contentions of the applicant. The respondents mainly submitted that the Office of the Chief Personnel Officer, S.E. Railway, Kolkata, vide letter dated 20.08.2015 [Annexure-R/1] informed the Divisional Railway Manager, S.E. Railway, Chakradharpur that the case of the applicant was put up before the competent authority who opined that it does not appear to be a fit case for compassionate appointment as there is nobody else apart from the son working as ASM and one married daughter. Subsequently, in response to letter dated 01.03.2019 again the Office of the Chief Personnel Officer [Rectt.], S.E. Railway informed the Sr. DPO, S.E. Railway, Chakradharpur that the case of the applicant was placed before the competent authority who did not agree to consider the same to be a fit case for consideration of employment assistance on compassionate ground [Annexure-R/2]. Thereafter, the entire case of the applicant was referred to the Chairman [RRC]/S.E.Railway/Garden Reach for consideration of the competent authority. However, as stated in letter dated 10.04.2019, the competent authority did not agree to consider the same to be fit case for consideration of employment assistance on compassionate ground.

6. The applicant has filed rejoinder to the written statement and reiterated his submissions. Additionally it is submitted that vide letter dated 10.04.2019, which is an internal correspondence between the Senior Divisional Personnel Officer and the Assistance Personnel Officer [Rectt] for CPO/GRC and the same was not served to the applicant. However, vide letter dated 02.05.2019 [Annexure-A/14 series], the applicant was informed that the whole case was forwarded to the Chairman [RCC]/GRC for kind consideration of GM/SER but the same was again regretted. It is further contended that without any reasoned order passed by the General Manager, S.E. Railway, the validity of rejection of the claim of the applicant does not sustain. The case of the applicant has not been considered in fact by the General Manager since no chit of paper has been produced by the respondents.

7. Heard the learned counsel for the applicant and perused the materials on record.

8. It is noticed that in pursuance to the directions issued by this Tribunal in OA/051/00142/2016, vide order dated 18.09.2017, the Respondent No.3, vide its order dated 10.07.2018 [Annexure-A/12], he has no authority to consider the case of the applicant for appointment on compassionate ground of a married daughter in terms of RBE No.70/2014 and further stated therein that the competent authority has regretted the claim of the applicant. It is also noticed that as per the provisions of RBE 70/2014, the General Manager is the competent authority to consider the case of the applicant for appointment on compassionate ground to a

married daughter. The respondents have contended that the competent authority has regretted the case of the applicant for employment assistance but they have not produced any chit of paper to establish their claim that the General Manager has considered the case of the applicant and passed any order. It is further noticed that the case of the applicant was recommended for consideration by the Sr. Divisional Personnel Officer, Chakradharpur vide letter dated 08.10.2018 to the Chief Personnel Officer [Rectt.].

9. Under the circumstances, we dispose of this OA with directions to the General Manager, S.E. Railway [Respondent No.1] to consider the case of the applicant for appointment on compassionate ground in terms of RBE No.70/2014 as also in accordance with extant rules without any influence of the order passed by the DRM, CKP dated 10.07.2018 [Annexure-A/12] and pass reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. We make it clear that we have not expressed any opinion on the merit of this case. No costs.

Sd/-

Sd/-

[Dinesh Sharma]M[A] [Jayesh V. Bhairavia]M[J]

mps