

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7034 of 2009

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1. The Union of India through the General Manager, East Central Railway, Hazipur, District-Hazipur.
 2. The Divisional Railway Manager, Danapur, District-Patna.
 3. The Senior Divisional Personal Officer, East Central Railway, Danapur, Patna.
 4. The Senior Divisional Engineer (2), East Central Railway, Danapur, Patna.
 5. The Senior Divisional Engineer (c), East Central Railway, Danapur, Patna.
 6. The Assistant Divisional Engineer, East Central Railway, Kiul, District-Lakhisarai.
 7. The Welfare Inspector, East Central Railway, East Central Railway, Danapur, Patna.
 8. The Section Engineer, East Central Railway, Jhajha.
 9. The Inspector, East Central Railway, Jhajha.
 10. The P.W.-I, East Central Railway, Jhajha.

.... Petitioners.

Versus

1. Shri Kapildeo Ram, son of Late Sita Ram, resident of village-Kundar, Post-Gopalpur, P.S.-Chanan, District-Lakhisarai.
 2. Subodh Kumar, son of Late Sita Ram.
 3. Rambati Devi, wife of Late Sita Ram.
- Both residents of village- Kundar, Post-Gopalpur, P.S.-Chanan, District-Lakhisarai.

.... Respondents.

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Appearance :

For the Petitioners : Mr. Parashuram Singh, Adv.
For the Respondents : None.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 02-04-2015

Railway, being aggrieved by the judgment and

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order dated 16.01.2009 passed by the Central Administrative Tribunal (hereinafter in short the 'Tribunal') in O.A. No.129 of 2007, has filed this writ petition. The Tribunal had set aside the order of the Railway dated 11.11.2006, whereby Railway had offered compassionate employment to the younger son of Late Sita Ram, a Railway employee, who died in harness on 25.05.2005.

The respondents in this writ petition, being the elder son Kapildeo Ram, who was applicant before the Tribunal, was noticed and appeared but today no one has appeared. The widow and younger son have already been made respondents but they have chosen not to appear.

Having heard learned counsel for the Railway, we are satisfied that it is a case of interference. According to the Tribunal compassionate appointment ought to have been offered to the elder son. That normally may be the rule. The facts in the present case are different. Sita Ram was a Railway employee who died in harness. He left behind his widow and two major sons, namely, Kapildeo Ram and the younger son, Subodh Kumar. The widow wrote to the Railway Administration declining to accept compassionate appointment but stated that she was staying with and being

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looked after by the younger son Subodh Kumar, therefore, he should be offered compassionate appointment. The elder son Kapildeo Ram was living separately. Railway, having taken the compassionate view of the matter, offered employment to the younger son. The elder son Kaildeo Ram being aggrieved moved before the Tribunal and managed to get the order of compassionate appointment.

We may only note at this stage that it shows that the elder son was hostile to the interest of his mother, widow of the employee and his younger brother. We may also note that compassionate appointment is not an appointment by way of right. It is a compassion shown by an employer to employee's family who is suddenly left without bread earner. The compassionate appointment is for the support of the family as a unit and not for one individual of a family. Here the family of the employee consisted of his widow, two sons, both of whom were majors. The first right goes to the widow then upon her declining, it would go to the elder son and then to the younger son but where like the present case, the elder son refuses to look after his widow mother and his younger brother and opts out them, he would be opting out of the family. By giving him compassionate appointment, the

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family interest is not looked after. As noted above, compassionate appointment is to protect and support the family and not a particular individual of the family.

That being so, we are unable to uphold the view of the Tribunal. The order dated 16.01.2009 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No.129 of 2007 is set aside and the order of the Railway dated 11.11.2006 (Annexure-5 to the writ petition) is restored.

Accordingly, this writ petition is allowed.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J)

Trivedi/NAFR

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