

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1256 of 2016

=====

1. Khatiza, wife of Late Allauddin
2. Md. Mushtaq Ahmad, son of Late Allauddin
Both residents of Village- Roopnagra, Ward No. 40, P.O.- Roopnagra, P.S.
Saharsa, District- Saharsa.

.... Petitioner/s

Versus

1. The Union of India through the General Manager, E.C. Railway, Hajipur.
2. The General Manager (P), E.C. Railway, Hajipur.
3. The Divisional Railway Manager, E.C. Railway, Samastipur.
4. The Senior Divisional Personnel Officer, E.C. Railway, Samastipur.
5. The Assistant Personnel Officer (Adm.), E.C. Railway, Samastipur.
6. The Assistant Signal & Telecommunication Engineer, E.C. Railway, Samastipur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Subodh Kuamr Jha, Advocate.

For the Respondent/s : Mr. Siddharth Prasad, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-07-2016

The order dated 04.09.2014 passed by the Central Administrative Tribunal, Patna Bench, Patna is the subject matter of challenge in the present writ petition, whereby by the aforesaid order, the claim of the petitioners for appointment on compassionate ground remained unsuccessful.

One Allauddin, while working as Loco Pilot at Saharsa, died in harness on 19.01.2010, leaving behind his widow (petitioner no. 1), two sons and four daughters (three married and one unmarried). Petitioner no. 2 is one of his sons.

After the death of Allauddin, an application was submitted for appointment on compassionate ground. Since, the same was not considered, the petitioners invoked the jurisdiction of the Tribunal by filing Original Application No. 307 of 2011. In pursuance of the direction of the Tribunal, the competent authority passed an order on 18.11.2011. The authority noticed that the family of the deceased has been paid the following benefits:

(i) Family Pension	:	Rs. 13199/- Per month + DA w.e.f. 20.01.2010, she is getting pension.
(ii) DCRG	:	Rs. 10,00,000/-
(iii) Provident Fund	:	Rs. 77,669/-
(iv) Leave Encashment	:	Rs. 81972/-
(v) Group Insurance	:	Rs. 55701/-
(vi) DLI	:	Rs. 60,000/-

Total Rs. 12,75,342 apart for this family pension of Rs. 13799 + DA per month is being paid to her.

The Tribunal has dismissed the Original Application, *inter alia*, on the ground that the funds available with the petitioners are sufficient for their subsistence and that no case is made out for appointment on compassionate ground.

The petitioners, before this Court, rely upon a judgment of the Supreme Court in the case of Balbir Kaur vs. Still Authority of India, AIR 2000 SC 1596, to contend that pensionary benefits cannot be taken into consideration for denying the compassionate appointment. The Supreme Court held that payment of Provident Fund and Gratuity cannot be in any way equated with the benefit of

compassionate appointment.

We find that the said judgment does not help the petitioners. What has been held by the Supreme Court is that the amount of Gratuity and the lump sum Provident Fund amount cannot be equated with the benefit of compassionate appointment. The Court has not held that the amount of pension needs to be ignored. As per the extract from the order, the petitioners are being paid family pension of Rs. 13,199/- + Dearness Allowances. The present dearness allowance is 125%, which makes a total family pension of more than Rs. 30,000/- per month. If a family is getting more than Rs. 30,000/- per month, it cannot be said to be in acute financial stringency, which may warrant appointment on compassionate ground.

In view of the said fact, the present writ petition is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.07.2016
Transmission Date	