

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2772 of 2016

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Pinki Sinha @ Pinki Devi, Wife of Late Bipin Kr. Sinha, resident of Station Road,
near block no. 219, P.O. Jamalpur, P.S.- Jamalpur, District- Munger.

.... Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, New Delhi.
2. The General Manager, Eastern Railway, Kolkata.
3. The Divisional Railway Manager, Howrah Division, Eastern Railways, Kolkata.
4. The Chief Works Manager, Eastern Railways, Jamalpur, Railway Workshop,
Jamalpur (Munger).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Advocate

For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 21-07-2016

Heard learned counsel for the parties.

2. The petitioner has approached this Court being aggrieved by the order dated 16th October, 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') by which O.A. No. 050/00678/2014 filed by her has been dismissed.

3. The petitioner is the second wife of late Bipin Kumar Sinha, who was a Railway employee and was murdered while being in service and his body was recovered on 09.05.2004. The petitioner



was made an accused, along with six others, in the F.I.R. relating to the death of her husband. However, she was acquitted by the trial court by judgment dated 11.06.2010, giving her benefit of doubt. Challenge to the said order by the State was also rejected by order dated 05.01.2011. The petitioner thereafter submitted a representation on 31.07.2012 for her appointment on compassionate ground. The same was rejected by the authorities under letter dated 05.06.2013. Against the said rejection, the petitioner approached the Tribunal in O.A. No. 55 of 2014, which was disposed off by order dated 21.01.2014, by which the order dated 05.06.2013 was set aside and the authorities were directed to examine the matter once again in terms of applicable rules/guidelines. Pursuant to the same, the authorities, by order dated 03.07.2014, once again rejected her claim, which was challenged by her in O.A. No. 050/00678/2014 and dismissal of the same by order dated 16th October, 2015 has given rise to the present writ application.

4. Learned counsel for the petitioner submits that she, being the only surviving wife and having a minor daughter, is not financially sound and, thus, should be granted compassionate appointment, to which she is legally entitled. It is further submitted that she had also given an undertaking that she would take care of her step children and in view of the request for compassionate



appointment to the son of her husband from the first wife having been turned down, the petitioner, being the wife, has preferential claim for such appointment. Learned counsel submits that the application for such compassionate appointment was also not time barred, for, soon after her acquittal in the criminal case, she had made a representation, which cannot be said to be time barred.

5. Learned counsel for the respondents submits that the petitioner was not only accused in the murder of her husband but had also been accused of adultery by her husband in his lifetime and, thus, she is not entitled for compassionate appointment. It is further submitted that one of the grounds for rejection was that she was not looking after her step children and there was no reasonable possibility of the same, which is obvious from the fact that she had been made accused for the murder of her husband and had been acquitted giving her benefit of doubt. Learned counsel submits that the employee having died in May, 2004, the son from the first wife having been denied such appointment, the petitioner after more than 12 years cannot be granted such relief and the authorities have rightly rejected the claim for compassionate appointment.

6. Having considered the rival contentions, we do not find any merit in the present writ petition. The fact that the petitioner was accused by her husband of adultery during his life time, which



was followed by his murder and the petitioner being accused in the F.I.R. and after facing the trial being acquitted giving benefit of doubt, we do not feel inclined to exercise our extraordinary prerogative writ jurisdiction. Further, her step children alleging that she was not looking after the death of their father and also the petitioner herself applying after more than eight years for such appointment, leaves no doubt that the compelling circumstances justifying appointment on compassionate grounds do not exist/survive. The law being settled, that such appointment is to tide over the immediate financial crisis faced by the family and now more than 12 years having elapsed, it would be an abuse of a beneficiary provision and also contrary to the very spirit and reason for making the scheme for compassionate appointment. In this context, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal vs. State of Haryana & Ors.** reported as (1994) 4 SCC 138, where it has been held as under:-

“2.....In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The

object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency.”

7. In view of the aforesaid, we do not find any merit in the present writ petition and the same stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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