

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

**AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL**

WRIT PETITION No.5688 of 2016

**-
25.02.2016**

Between:

The South Central Railways,
Guntur and another

..Petitioners

And

The Central Administrative Tribunal, Hyderabad and another

..Respondents

Counsel for the petitioners: Mrs.Chintalapudi Lakshmi Kumari,
standing counsel for Railways

Counsel for the respondents: --

The Court made the following:

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ORDER: (Per CVNR,J)

The South Central Railways and its Assistant Personnel Officer, Guntur, filed this writ petition assailing the order, dated 21.08.2015, in O.A.No.021/00591/2015 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short 'the Tribunal').

2. One Yadagiri was an employee of the petitioners. He died in harness. Respondent No.2 is the son of the second wife of the deceased employee. Evidently, after settling the disputes with the branch of the first wife of the deceased employee, respondent No.2 applied to the petitioners for appointment on compassionate grounds in place of his father. Initially, a letter of appointment was issued on 19.11.2014 to respondent No.2 appointing him as Skilled Artisan.III in Group-C Services in Pay Band of Rs.5200-20200 + Rs.1900/- Grade Pay in Electrical Department against direct recruitment quota on compassionate grounds. However, a few months later, the petitioners have informed the mother of respondent No.2 that the case was re-examined and the offer of appointment was withdrawn on the ground that the second marriage of the deceased employee during the subsistence of the first marriage was not permitted and the children born to the second wife are not entitled to be considered for appointment on compassionate grounds, in terms of Railway Board's instructions issued in CPOs/SCs Serial Circular No.05/1992. Feeling aggrieved by this action, respondent No.2 filed the aforementioned O.A. before the Tribunal. The Tribunal allowed the said O.A. by the impugned order and set aside the order before it mainly on the ground that the High Court of Kolkata in **Smt.Namita Golder and another vs. Union of India and others** ^[1] quashed the abovementioned Circular.

3. Smt.Chintalapudi Lakshmi Kumari, learned standing counsel for

Railways appearing for the petitioners, has not disputed the fact that the aforesaid Circular, which constituted the basis for recalling the order of appointment of respondent No.2, was struck down by the Kolkata High Court in the aforementioned case.

4. Therefore, so long as the aforesaid judgment holds the field, the petitioners cannot act on the aforementioned Circular and the Tribunal has rightly allowed the aforesaid O.A. filed by respondent No.2. For the aforementioned reasons, we do not find any ground to interfere with the order of the Tribunal.

5. The Writ Petition is accordingly dismissed.

6. As a sequel to dismissal of the writ petition, W.P.M.P.No.7239 of 2016 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

25th February, 2016
GHN

[\[1\]](#) 2010(1) CLJ (Cal) 464