

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18207 of 2017

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1. The Union of India through the General Manager, South Eastern Railway, Adra (Purliya), West Bengal.
 2. The Senior Divisional Personnel Officer, South Eastern Railway, Adra (Purlia), West Bengal.
 3. The Welfare Inspector, South Eastern Railway, Adhra (Purlia), West Bengal.
 4. The Assistant Station Master, Jhimri, South Eastern Railway, Adra (Purlia), West Bengal.

.... Petitioners

Versus

1. Rita Devi Wife of Late Tripurari Singh
2. Pintu Kumar Son of Late Tripurari Singh Both residents of Village - Raghapur, P.O. Powa, P.S. Fatehpur, District - Gaya.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abbas Haider, Adv.

For the Respondent/s : Mr. Rabindra Kumar Priyadarshi, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 12-10-2018

We have heard Mr. Abbas Haider, learned counsel for the Union of India in its Ministry of Railways and Mr. Rabindra Kumar Priyadarshi, learned counsel appearing for the respondents, who are applicants before the Tribunal.

The Union of India in its Ministry of Railways has questioned the judgment and order 19.07.2017 of the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 050/00067 of 2016, whereby the original application filed by the petitioners seeking compassionate appointment has been allowed with a direction



to the petitioners herein to consider the case of respondent no. 2 for compassionate appointment. For the sake of convenience we shall be hereinafter, referring to the party position as it existed before the Tribunal in the original application so filed.

The facts leading to this writ petition briefly stated is that respondents as applicants before the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as 'the Tribunal') filed an application under Section 19 of the Administrative Tribunal Act, 1985 questioning the order dated 27.04.2015 passed by the Senior Divisional Personnel Officer, South Eastern Railway, Adra, (Purulia) in the State of West Bengal, whereby the representation of the applicant no. 2 i.e. son of applicant no. 1 was rejected. It was the case of the applicants before the Tribunal that the husband of applicant no. 1 and the father of the applicant no. 2 was in employment of the respondent railways, who expired on 27.04.1999 while in service. It is not in dispute that the applicant no. 1 is the 2nd wife of the deceased employee and the marriage took place on the death of the 1st wife. It is again not in dispute that the deceased employee had a daughter from the 1st marriage namely, Soni Kumari and had two sons from the 2nd marriage namely, Raju Kumar and Pintu Kumar. On the death of the employee on 27.04.1999, the daughter Soni Kumar applied for compassionate appointment but no action being taken that she moved



the Tribunal through O.A. No. 1086 of 2002 which was disposed of on 31.12.2002 by the Tribunal with a direction to the respondents to dispose of the claim raised by the said Soni Kumari for compassionate appointment. Perhaps no action was taken thereon and the matter remained pending with no action being taken thereon.

In such circumstances, the elder son of the applicant no. 1, Raju Kumar applied but his application was not acted upon because there was already an application filed by Soni Kumari seeking such compassionate appointment. Unfortunately the elder son of applicant no. 1 Raju Kumar died on 22.08.2013 and Soni Kumari, who had filed her application for compassionate appointment which remained pending with the railways, got married in the year 2014.

In such circumstances and in view of the developments above noted, the applicant no. 1, the widow, applied for compassionate appointment of the 2nd son Pintu Kumar which has been rejected by the impugned order dated 27.07.2015 leading to the original application which has been allowed and feeling aggrieved, the Union of India in its Ministry of Railways, is before the Court when the parties have been heard.

The facts are not disputed, rather the objection taken by the respondents authorities as the petitioners before this Court, is the excessive delay in seeking compassionate appointment by the



dependents of the deceased employee. Perhaps the railways are correct and there is definitely a delay in between the cause of action and which arose way back on 27.04.1999 on the death of the employee and the present claim raised but then the issue is, who is to be blamed for this delay and whether there was any laches on the part of the dependents of the deceased employee in seeking such appointment. There is absolutely no dispute of this issue and conformingly, it is the laid back attitude of the respondent railways, who are the petitioners before this Court, in taking the claim of compassionate appointment raised by the daughter of the deceased employee way back in the year 2002 to its conclusion, which has resulted in a situation where the family of the deceased employee is yet seeking remedy before this Court. It is taking note of this aspect of the matter which has persuaded the Tribunal to grant indulgence and we find absolutely no infirmity in the order so passed because undisputedly no final decision had been taken by the Railways on the issue of providing compassionate appointment to the dependents of the deceased employee. It is noteworthy that despite directions being issued by the Tribunal on the application of the daughter of the deceased employee way back on 31.12.2002, a period of 16 years has not yet been found sufficient for the Railways to take the issue to its logical conclusion forcing the widow to make rounds of the Courts.



The legal position on the issue of compassionate appointment is well settled for making reference to any judicial pronouncement and should there be any delay on the part of the family in seeking compassionate appointment, any decision taken to reject such claim, cannot be ordinarily interfered with but the situation here is different because even when there is absolutely no laches on the part of the family in seeking one such appointment inasmuch as the situation is the daughter of the deceased employee had filed application for compassionate appointment and on not getting a response, moved the Tribunal, who directed the authorities to take a decision in the matter as back as in 2002 and it is awaiting implementation that she got married in 2014 and the elder son of the deceased employee from the present wife i.e. applicant no.1, also deceased in the meanwhile on 22.8.2013. If in such circumstances, the widow - applicant no.1 again approached the Railways seeking appointment for the younger son, who had attained majority while process was still on, its rejection, in our opinion is not only arbitrary but an abuse of the jurisdiction so vested in the authority under the Rules governing the issue of compassionate appointment because the delay, if any, was certainly not attributable to the family of the employee.

In view of the discussions above, we find absolutely no



infirmity in the expression of the Tribunal to direct the respondents to consider the claim of applicant no.2 for compassionate appointment and the respondents, who are petitioners before this Court, are bound to carry out the directives in the circumstances noted above.

The writ petition is dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Archana/ Surendra

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	04.12.2018
Transmission Date	NA

