

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

WRIT PETITION NO.6160 OF 2012

Somnath s/o Ashru Aher
Age : 19 years, Occu : Student,
R/o. Baburdi, Post Madhewadgaon,
Tal. Shrigonda, Dist. Ahmednagar .. Petitioner

Versus

- 1) Union of India,
Through Ministry of Railway,
Railway Bhavan, Rafi Marg,
New Delhi- 110001.
- 2) The General Manager,
Central Railways, CST office,
Mumbai – 400 001.
- 3) Divisional Railways Managers,
Personal Branch,
Solapur. .. Respondents

...

Shri S.S. Kulkarni, Advocate for Petitioner
Shri M.N. Navandar, Advocate for Respondents

...

CORAM : SUNIL P. DESHMUKH &
P.R. BORA, JJ.

Dated: January 30, 2018

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.) :

1. Rule. Rule made returnable forthwith. Heard the parties by consent finally.

2. The petitioner claims that, his father died in -1992, while he had been discharging duty as a gateman on Daund - Manmad railway line at Belwandi, Taluka Shrigonda, District Ahmednagar.

3. Petitioner's case is, his father had married twice, while from the first marriage no child could be begotten, second marriage had been performed with the mother of the petitioner with consent of the first wife. The petitioner had been born from the wedlock in 1992.

4. After death of father in 1992, the two wives of the deceased were being paid pension equally by the railway administration.

5. The petitioner claims to have completed schooling by 2011 and further claims that the financial condition of the family had been rendered extremely bad and thus he had filed application to railway administration for appointment on compassionate ground, since his father having died during the course of employment.

6. Petitioner further purports to contend that, his

stepmother Laxmibai has no objection, if he is appointed on compassionate ground.

7. The respondent railway administration has filed its reply refuting the claims made and refusing the petitioner to consider to be entitled for appointment on compassionate ground.

8. In affidavit, it has been referred to that, there are restrictions on marriages and railway servant is not supposed to contract a second marriage while having a living spouse. A second marriage can be performed only in case, if it is permissible under personal law. With reference to aforesaid, it is being submitted that family of the petitioner comes from Hindu religion, where second marriage is not permissible while first wife is alive.

9. Additionally, learned counsel for the respondent has tendered across a master circular bearing no. 16 in respect of appointment on compassionate grounds referring to clause 10, reading thus :

I. CIRCUMSTANCES IN WHICH COMPASSIONATE APPOINTMENTS MAY BE MADE :

i to ix.

- x. Where the widow cannot take up employment, Railways can keep the "case for appointment on compassionate grounds open to enable consideration of appointment of a minor son when he attains majority, even though at the time of occurrence of the event making compassionate appointment permissible, there is a daughter who has attained majority and/or a major son who is already employed. This will be subject to the following conditions :
 - a. The minor son to be appointed will be attaining majority of age within a period of five years of the event of death which is the basis for appointment on compassionate grounds.
 - b. Where there is more than one minor son, it is only the eldest minor son who should be considered for appointment when he attains majority and not any of the minor sons.
 - c. Further in such cases, the competent authority should be satisfied about the bona fides of the request of the widow or if there is no surviving widow, of the family, that appointment should be given to a minor son (when he attains majority) instead of a daughter or an employed son who is already a major.

10. In the scheme of compassionate appointments, it does not appear that, the petitioner can be accommodated and treated anywhere particularly having regard to sub clause "a" of clause 'x' referred to above.

11. In addition to that, we have to keep at the back of our mind that, while father of the petitioner has died in 1992, the claim for appointment on compassionate ground is being made in 2012. In the interregnum the family had been receiving pension and none of the widows had approached for compassionate appointment.

12. Apart from aforesaid, we consider that the purpose underlying compassionate appointment is to provide succour to a bereaved family from sudden financial crisis occurring upon demise of earning hand, the object is to provide immediate financial help to the family where there is a loss of bread earner.

13. In the circumstances, we do not consider that, the petition carries any substance for consideration under the extraordinary powers of this Court.

14. Writ Petition, as such, is dismissed. Rule discharged.

(P.R. BORA)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE