

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.17534 of 2015 and WP.No.13600 of 2017

COMMON ORDER :

Since common issue arise out of the same Writ Petitions, they are being disposed of by this Common Order.

2. Heard the Counsel for petitioners in both the Writ Petitions, and Smt. Pushpinder Kaur, learned Standing Counsel for South Central Railways, for respondents, in both the Writ Petitions.

3. The petitioner in WP.No.13600 of 2017 is the son of the 1st petitioner in WP.No.17534 of 2015. He is the 2nd petitioner in WP.No.17534 of 2015.

4. The husband of the 1st petitioner in WP.No.17534 of 2015, viz., R. Jeremaiah was employed as a Head Constable in the Railway Protection Force, and he died while in service.

5. Initially, the 1st petitioner in WP.No.17534 of 2015 sought appointment on compassionate grounds, but her claim was not considered on the ground that she needs to get a clearance certificate from the married daughter of the 2nd wife of her husband. This was questioned by her and her son in WP.No.17534 of 2015.

6. Later, the petitioner in WP.No.13600 of 2017 filed the said Writ Petition contending that he may be considered for appointment on compassionate grounds. His request had been rejected by

respondents on 08.08.2016 on the ground that the marriage to his mother, i.e., the 1st petitioner in WP.No.17534 of 2015, was not permitted by the respondents.

7. However, it is not in dispute that even the married daughter of the 2nd wife of Late R. Jeremaiah, has now died on 23.02.2016 and the report dt.04.03.2016 of the Inspector of the Railway Police Force states this fact. The said report also states that the 1st petitioner in WP.No.17534 of 2015, and her son are the only surviving family members of the deceased-employee.

8. The counsel for petitioners, in both the Writ Petitions, placed reliance on the decision of a Division Bench of this Court in WP.No.32759 of 2016 wherein it has taken a view that children born to the 2nd wife of an employee are also legitimate in view of Section 16 of the Hindu Marriage Act, 1955, and would have all equal rights available under law, and are entitled to benefit which derives from the deceased father or mother.

9. Smt. Pushpinder Kaur, learned Standing Counsel for South Central Railways, for respondents, in both the Writ Petitions, also states that in view of altered circumstances, i.e., the death of the married daughter of Late R. Jeremaiah through his 2nd wife, since the petitioners in WP.No.17534 of 2015 are only the surviving members of his family, the respondents have no objection for granting appointment on compassionate grounds to the 2nd petitioner in

WP.No.17534 of 2015 (who is also the petitioner in WP.No.13600 of 2017) in a suitable post.

10. Accordingly, the Writ Petitions are allowed. The order dt.08.08.2016 of the 3rd respondent in WP.No.13600 of 2017 is set aside.

11. The respondents are directed to provide employment in a suitable post on compassionate grounds to the 2nd petitioner in WP.No.17534 of 2015 (who is also the petitioner in WP.No.13600 of 2017), within a period of four (03) weeks from the date of receipt of copy of the order. No order as to costs.

12. As a sequel, miscellaneous petitions pending if any in these Writ Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07.02.2018

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