

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6704 of 2018

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Sunita Kumari Verma @ Sunita Verma, W/o Late Ashok Verma @ Late Ashok Kumar Verma, Resident of Kalyan Vihar Colony, Ambedkar Path, P.S. - Rupaspur, Khazpura, Patna - 14.

... .. Petitioner

Versus

1. The Union of India through the General Manager, Northeast Frontier Railway, Maligaon, Guwahati-11
2. The General Manager, Northeast Frontier Railway, Maligaon, Guwahati - 11.
3. The A.G.M. Northeast Frontier Railway, Maligaon, Guwahati - 11.
4. The Chief Personnel Officer (C.P.O), North East Frontier Railway, Maligaon, Guwahati - 11.
5. The Sr. D.P.O. Northeast Frontier Railway, Maligaon, Guwahati - 11.
6. The Chief Operation Manager (C.O.M.) Northeast Frontier Railway, Maligaon, Guwahati - 11.
7. The Principal, ZRTI, Northeast Frontier Railway, Maligaon, Guwahati.
8. The A.P.O. Northeast Frontier Railway, Maligaon, Guwahati.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Rabindra Nath Tiwari, Advocate
Mr. Rakesh Kumar Jha, Advocate
For the Respondents-Railway: Mr. Anil Kumar Sinha, SC

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 02-12-2019

The delay of 31 days caused in filing the writ petition is condoned.

2. Heard learned counsel for the petitioner and learned counsel for the respondents.

3. The present application under Article 226 of the Constitution of India has been filed by the petitioner for



quashing the order dated 02.05.2017 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short 'the Tribunal') in O.A. No.050/00868 of 2015 whereby the original application filed by the petitioner against the speaking order dated 03.07.2015 passed by the Chief Personnel Officer, Malegaon refusing to grant compassionate appointment to the petitioner has been dismissed.

4. The facts of the case, in brief, are that late Ashok Kumar Verma, was working on the post of Traffic Inspector (Trainee) at Zonal Railway Training Institute at Alipurduar Junction, Jalpaiguri, West Bengal, North East Frontier Railway. He was undergoing training of Traffic Apprenticeship for two years with effect from 10.04.2008. While on training, he died on 11.09.2008 in a hotel in Siliguri. The petitioner, being the widow of the deceased employee late Ashok Kumar Verma, applied for her appointment on compassionate ground to the General Manager (P) NEF Railway on 15.01.2009. She was informed, vide letter dated 09.04. 2010, issued by the respondents that the request for appointment on compassionate ground could not be considered since in terms of Railway Board's letter dated 07.04.1983, as appointment on compassionate ground is admissible to the dependent of regular



employee only. Since the deceased employee was not a regular employee, her application seeking compassionate appointment can not be considered. She submitted another application on 28.07.2014 requesting for appointment on compassionate ground, which was again examined and taking sympathetic view, it was decided to refer the matter to the Railway Board, which fact was also communicated to her vide letters dated 19.08.2014 and 29.08.2014. The Railway Board examined the issue and informed that vide Railway Boards Letter No. E(NG) II/2015/RC-1/NFR/10 dated 22.05.2015 a person undergoing training before his regular appointment in railway and, who expires during the period of training, compassionate ground appointment to his wife/children can not be given. After receiving the Railway Boards letter, the Chief Personnel Officer, NEF Railway, Malegaon communicated the petitioner that her application for compassionate ground appointment can not be considered.

5. Upon challenge, the Tribunal having appreciated the aforesaid facts vide impugned order dated 02.05.2017 opined that if under a circular the dependent of a trainee is not entitled for appointment on compassionate ground, no fault can be found in the action of the respondents calling for



interference.

6. The appointment on compassionate ground can not be claimed as a matter of right.

7. In **State Bank of India and Another v. Raj Kumar**, since reported in **(2010) 11 SCC 661**, the Supreme Court observed that the compassionate appointment is not a source of recruitment. It is an exception to general rule, that recruitment to public services should be on the basis of merit, by open invitation, providing equal opportunity to all eligible persons to participate in the selection process. The Supreme Court further observed in Para 8 as under:-

“8. It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependents of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the



employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the applicant.”

8. In **State of Chhattisgarh and others v. Dhirjo Kumar Sengar** since reported in (2009) 13 SCC 600, the Supreme Court observed as under:-

“Appointment on compassionate ground is an exception to the constitutional scheme of equality as adumbrated under Article 14 and 16 of the Constitution of India. Nobody can claim appointment by way of inheritance.”

9. In case of railway employee, the scheme of compassionate appointments are mainly dealt in terms of the instructions and circulars issued by the Railway Board from time to time.

10. In terms of Railway Board’s Letter No. E (NG) 11/RCI/NFR10 dated 22.05.2015, if the appointment on compassionate ground is not permissible to the wife/children of a person undertaking training and expired before appointment



on regular basis, we are also of the opinion that the petitioner cannot be given appointment on compassionate ground, as her husband was undergoing training and was being paid stipend, as would appear from the pleadings made in the written statement on behalf of the respondents. The respondent Railway has rightly held in its order dated 03.07.2015 that since there is no provision for compassionate ground appointment to the widow of a trainee, the request of the petitioner for compassionate ground appointment can not be considered.

11. The view taken by the Tribunal does not warrant any interference by this Court.

12. The writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

(Prakash Chandra Jaiswal, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2019
Transmission Date	NA

