

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23038 of 2018

Vandana Rakesh D/o Late Ram Prasad Tanti, W/o Raja Ranjeet Singh, R/o Chiraiyabad, P.S.- Muffasil, P.O.- Ratanpur District- Munger, Presently resident of Mohalla- Chhoti Keshopur Nalapar, Police Station- Jamalpur, P.O.- Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The Union of India through Chief Secretary, Department of Railway, Govt. of India, Rail Bhawan New Delhi, District-Central Delhi, Pin Code-1100 01.
2. General Manager, Eastern Railway 17 Netaji Subhash Chandra Bose Fairly Palace Kolkata W.B. District-Kolkata, Pin-700043
3. Chief Works Manager, Eastern Railway Jamalpur Workshop, Jamalpur, P.S.- Jamalpur, District- Munger (Bihar), Pin-811214
4. Workshop Personal Officer, Eastern Railway Jamalpur Workshop, Jamalpur, P.S.- Jamalpur, District- Munger (Bihar), Pin- 811214.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Dinesh Kumar Gupta
For the Respondent/s	:	Mr.Anil Kumar Sinha
		Mr. Bijay Kr. Sinha

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 03-02-2020

Heard learned counsel for the petitioner and learned counsel for the Railway Administration.

In the present case, the petitioner is third daughter of Ram Prasad Tanti, he was working as Ex Tech-I, Ticket No.9899 IR in Eastern Railway Workshop, Jamalpur and died on 26.06.2013, leaving behind his widow and three married daughters namely, Kumari Kavita Rakesh, Kumari Binita Rakesh and Vandana Rakesh (present petitioner), who have already married in



the year 2003, 2005 and on 08.03.2011 respectively. After the death of Ram Prasad Tanti, his widow along with the present petitioner filed an application for appointment on compassionate ground and when no positive result came to the hand of the present petitioner, she moved before the Central Administrative Tribunal, in O.A. No.736 of 2016, which was disposed of on 29.08.2017, giving a direction to consider her case, subject to filing of application in a prescribed format. Whereafter, her application was entertained and a report was called for from the Railway Welfare Inspector, who submitted the report and whereafter, the final order has been passed against the petitioner, which was challenged before the Central Administrative Tribunal in O.A. No.649 of 2018 and the Tribunal, vide order dated 03.08.2018, rejected the application on two grounds. First, the petitioner has failed to produce “No Objection Certificate” from her two elder married sisters and another, the widow of Late Ram Prasad Tanti died on 13.10.2016 and the learned counsel for the petitioner has challenged the impugned order on the following manner:

First, the delay has been caused on account of administrative negligence of the Railway Administration. Second, the report of Railway Welfare Inspector was not produced either before the Central Administrative Tribunal or before this Court,



nor supplied even after an application was filed by her. The submission has been made, in order to prove the dependency, photo of Ration Card attached to the record corroborates the claim of petitioner.

In support of the submission, reliance has been placed on the Circular issued by the Railway Administration, which makes it clear that the married daughter, if she is dependent on bread earner, will also be considered for appointment on compassionate ground. It has further been submitted that the present petitioner has filed the application in time, attaching all the relevant papers including the dependency certificate but, admittedly she had not attached the “No Objection Certificate” from her two married sisters nor she has submitted as yet.

The learned counsel for the petitioner further submits that there are several instances; the married daughter has been appointed and the delay, which has been caused on account of Railway Administration, cannot be the basis for rejection of the claim of the petitioner and, as such, her case should be considered favourably and a direction may be given for appointment of the present petitioner on compassionate ground. The learned counsel for the petitioner has further placed reliance on the Circular, order and judgment passed by this Court. One of the orders has been



passed by me (Shivaji Pandey, J.) sitting singly, in which, the delay has also been considered and it has been held that the delay caused by the Railway Administration cannot be a ground for deprivation of the relief. It has further been submitted that the mother of the petitioner, during life time, has supported the claim of the petitioner and as such, there was no need to submit any “No Objection Certificate” with the application.

The counsel for the Railway Administration submits that the present petitioner is a married lady and her two sisters have already married. The mother of the petitioner has also died in the year 2016 so, the question of running the family of the deceased employee does not arise.

The basic concept of compassionate appointment is that if the bread earner dies during the service period, in such circumstances, a Circular has been framed to provide compassionate appointment to the dependent of the deceased employee so that the family of the deceased employee may not face hardship on account of financial crisis. In order to mitigate hardship faced by the family such mechanism has been made, though is not in consonance with the Article 14 and 16 of the Constitution of India. Admittedly it is a public property, every citizen has right to claim over the same.



Having considered the rival contentions of the parties, in the case of **Umesh Kumar Nagpal vs. State of Haryana and others** reported in **(1994) 4 SCC 138**, principle has been delineated by the Hon'ble Supreme Court that the compassionate appointment is given to mitigate financial crisis on account of death of bread earner. Applying that principle in the present case, admittedly in the present case, the deceased-employee during his life time has performed all his liabilities, as he got married of all the daughters before his death i.e. on 26.06.2013 and his widow died on 30.10.2016. So, the purpose, for which the compassionate appointment is sought, does not survive, as the petitioner is a married lady having a complete family and it is not so that she has a right to get the appointment on compassionate ground but, the purpose of compassionate ground is that when the bread earner dies, in such circumstance, the compassionate appointment is made so that the family should not be put in penury. Further, it may be a ground, delay has been caused by the Railway Administration, but as on today, we do not feel satisfied that the purpose of compassionate appointment would be served by giving direction for consideration of the appointment of the petitioner.

At this stage, it has also been argued by the learned counsel for the petitioner that on account of some family dispute,



the marriage is at the verge of separation, as her husband is unemployed. However, we do not find any substance in this argument.

We do not find any merit in the present and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

Mahesh/-

AFR/NAFR	NAFR
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