

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21286 of 2021

1. The Union of India through the General Manager, East Central railway, Hajipur-844101.
2. The Genral Manager (P), East Central Railway, Hajipur-844300.
3. The Divisional Railway Manager, East Central Railway, Samastipur-848101.
4. The Divisional Railway Manager (P), East Central Railway, Samastipur-848101.
5. The Senior Personnel Officer (Recruitment), East Central Railway, Samastipur-844101
6. The Assistant Divisional Personnel Officer, East Central Railway, Hajipur-844101.

... .. Petitioner/s

Versus

1. Most. Sona Devi, Widow of Late Ramrikeshwar Ray Resident of Village-Ashapur Bhawani, P.O. Silot, P.S. Maniyari, District Muzaffarpur.
2. Kamlesh Kumar Son of Late Ramrikeshwar Ray Resident of Village-Ashapur Bhawani, P.O. Silot, P.S. Maniyari, District Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kanak Verma, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 12-07-2022

Heard learned counsel for the petitioners.

2. The writ petition has been filed for quashing of the:

“for quashing the order dated
05.08.2021 passed by Hon’ble Shri M.C.
Verma, Member (J) and Hon’ble Shri
Sunil Kumar Sinha, Member (A),



Central Administrative Tribunal
(C.A.T.), Patna Bench, Patna in O.A.
No.050/00046/2021 with M.A.
No.39/2021, whereby and whereunder
the order dated 05.05.2020 passed by Sr.
DPO/SPJ stands quashed and matter was
remitted back to be department to
consider and to take decision on merits
as expeditiously as possible but latest
within four months.

3. The facts of the case are as follows.

4. One Ramrikeshwar Ray was employed with the Indian Railways and was married to Most. Sona Devi (respondent no.1 herein). As the couple remained issueless, with the consent of Sona Devi, the employee performed second marriage with Sumitra Devi and from the said wedlock, two sons and a daughter were born respondent no.2 Kamlesh Kumar being one of them.

5. Ramrikeshwar Ray died in harness on 30.12.2009. Kamlesh Kumar, son of the late employee upon attaining majority made a request in 2015 before the Railway Authorities to appoint him on compassionate ground. The same came to be rejected on 24.10.2018 by one line order.



5. Aggrieved, O.A. No.1052/2018 was preferred by the respondents herein before the Central Administrative Tribunal, Patna Bench, Patna (*henceforth for short* 'the Tribunal'). 'The Tribunal' after hearing the parties vide an order dated 17.01.2020 directed the respondents to consider the request of the applicant for appointment on compassionate ground in the light of the guidelines issued by the Railways from time-to-time.

6. The Divisional Railway Manager (P), Samastipur vide an order dated 05.05.2020 rejected the claim of the respondent-applicant on two grounds:

(i) as per the Rules prevailing then, the child of the second wife is not entitled for compassionate appointment;

(ii) since the employee died in 2009 and the matter is 10 years old, hence the crisis is over and no compassionate appointment is required. Accordingly the same was rejected.

7. Still aggrieved, the respondent-applicant preferred O.A. No.050/00046/2021 before 'the Tribunal', which after hearing the parties and perusing the records vide an order dated 05.08.2021 allowed the OA with the following observation:



“10. Impugned order based upon legally unsustainable ground and being found faulted warrants interference of this Tribunal and accordingly order dated 05.05.2020, impugned in the OA, stands quashed. Taking note of entirety, Matter is remitted back to the department to reconsider and to take decision on merits, as expeditiously as possible but latest within four months.”

11. O.A. & MA accordingly stand disposed of. No costs.”

8. ‘The Tribunal’ while quashing the order dated 05.05.2020 had remitted the matter back to ‘the Department’ to reconsider and take decisions on merit. However, the writ petitioner-respondent instead preferred the present writ petition challenging the order dated 05.08.2021 passed by ‘the Tribunal’.

9. The main contention raised by the learned counsel for the petitioner is the same which finds incorporated in the order dated 05.05.2020 inasmuch as the learned counsel took the plea that the deceased employee had not taken consent before the second marriage and as such his son was not entitled for the



compassionate appointment and further that there was a delay of was ten years and as such the extension of compassionate appointment was not at all required.

10. We have gone through the materials on record and heard the counsel for the writ petitioner.

11. The point for consideration by the appellants while rejecting the claim for compassionate appointment was in line with the facts of the case.

12. It is to be noted herein that:

(i) the first lady had no issue and as such with her consent, the deceased employee had solemnized the second marriage out of which the present claimant was born;

(ii) the application was made by the son Kamlesh Kumar in 2015 itself i.e. within five years of the death of the employee in 2009.

13. Thus, the points considered by the appellants while rejecting the claim for compassionate appointment was not in consonance with the facts of the case.

14. Taking into account all the aforesaid facts 'the Tribunal' had remitted the matter back to the respondent



authorities (Railways) to reconsider the matter and take decision on merit, which in our opinion is just and proper.

15. We have gone through the order passed by ‘the Tribunal’ by which it has remitted the matter for reconsideration and do not find any infirmity in it.

16. The writ petition is accordingly dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
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