

19.07.2023
Item No. 27
Ct. No. 7
PG

W.P.A. 8779 of 2019

Smt. Kanti Devi
Vs.
Board of Railways & Ors.

Mr. Dipendra Narayan Bose
Ms. Kakali Dutta
Mr. Saikat Kundu.....for the petitioner

Mr. Sourav Mondal.....for the respondents

The affidavit in reply filed in Court today is taken on record. However, the affidavit in opposition on behalf of the respondents is not on record. Mr. Bose, learned advocate representing the petitioner submits that a copy of such opposition has been served upon him and he has produced a photocopy of the said affidavit in opposition, which is taken on record.

The petitioner is the widow of one Biswanath Singh, who was an employee of Welding shop under the railway authority. The said Biswanath Singh died on February 13, 2011. Thereafter the petitioner submitted a representation praying for compassionate appointment of his son, for the first time only on May 26, 2015.

Mr. Bose, learned advocate appearing for the petitioner submits that the respondent authorities by repeated letters requested the petitioner to submit various documents and testimonials in support of her claim for compassionate appointment and the petitioner duly complied with such requests but in spite of that the respondent authorities are sitting tight over the representation made by the petitioner for compassionate appointment of his son.

Heard the learned advocates for the parties and perused the materials placed. Record reveals that the petitioner submitted a representation dated March 24, 2011 to several authorities of the railways. It appears therefrom that the husband of the petitioner was inflicted with the punishment of compulsory retirement with effect from September 30, 2008 on the ground of his long unauthorised absence with effect from April 13, 2006. In the said representation the petitioner also requested the authorities to take a sympathetic consideration of the punishment inflicted upon her deceased husband.

Admittedly, the petitioner is enjoying the benefits of family pension upon the death of her husband. Since the punishment of compulsory retirement was inflicted upon the husband of the petitioner with effect from September 30, 2008, it

cannot be said that husband of the petitioner died while he was in service.

Therefore, the question of compassionate appointment cannot and does not arise as the death of Biswanath Singh do not fall within “died-in-harness” category. Accordingly, the prayer of the petitioner for compassionate appointment of his son upon the death of Biswanath Singh, an ex-employee of the railways is rejected.

The petitioner has also prayed that some amount on account of retiral benefit has not yet been released by the railways. The petitioner is given liberty to submit a representation before the appropriate authority of the railways specifying the heads in respect of which the payments are still due to the petitioner on account of the retiral benefit of her deceased husband. If such a representation is submitted, the concerned respondent authority of the railways shall consider and dispose of such representation by passing a reasoned order after giving an opportunity of hearing to the petitioner or her authorised representative and communicate the said reasoned order to the petitioner immediately thereafter.

The entire exercise, insofar as the consideration of representation with regard to unpaid retiral benefit is concerned, shall be completed within

a period of eight weeks from the date of receipt of the said representation along with a server copy of this order.

With the above observations/directions, the writ petition stands disposed of.

There shall be however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)