



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 26TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 104798 OF 2023 (GM-RES)

BETWEEN:

1. SOUTH WESTERN RAILWAY
CENTRAL OFFICE,
GADAG ROAD,
HUBBALLI BY ITS GENERAL MANAGER
DIST. DHARWAD
2. SOUTH WESTERN RAILWAY
DIVISIONAL, GADAG ROAD,
HUBBALLI BY ITS GENERAL MANAGER
3. CENTRAL HOSPITAL (RAILWAY)
OFFICE OF ACHD
SOUTH WESTERN RAILWAY
GADAG ROAD,
HUBBALLI BY ITS ADMINISTRATOR

MOHANKUMAR
B SHELAR

Digitally signed
by
MOHANKUMAR
B SHELAR

...PETITIONERS

(BY SRI. VENKATESH M KHARVI.,ADVOCATE)

AND:

1. SMT. RATNAMMA ALIAS
JANAKIRATNA
W/O PARASHURAM KADUR
AGE. 41 YEARS,
OCC. HOUSEHOLD,
R/O.NO.204/B,



NEAR OLD HOSPITAL COMPOUND,
GADAG ROAD, HUBBALLI
DIST.DHARWAD-580009

2. PAVANKALYAN
S/O PARASHURAM KADUR
AGE. 23 YEARS,
OCC. STUDENT,
R/O.NO.204/B,
NEAR OLD HOSPITAL COMPOUND,
GADAG ROAD, HUBBALLI
DIST.DHARWAD-580009
3. SMT. SAVITRI
AGE. 52 YEARS,
OCC. HOUSEHOLD,
R/O.NO.16TH WARD, INDIRA NAGAR,
ADISHAKTI TEMPLE, ISR ROAD,
HOSAPETE
DIST. BELLARY-583101

...RESPONDENTS

(BY SRI.S.L.MATTI , ADV. FOR R1 & R2,
SRI.RAM V.GHORPADE, ADV. FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF
CERTIORARI OR ANY OTHER WRIT ORDER TO QUASH THE
COMPROMISE DECREE DATED. 07/01/2021 PASSED BY PRINCIPLE
JUDGE FAMILY COURT HUBLI IN O.S. NO. 49/2019 VIDE
ANNEXURE-L.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY,
THE COURT MADE THE FOLLOWING:



ORDER

The captioned writ petition is filed by the railways assailing the compromise decree passed in O.S.No.49/2019.

2. Petitioners claim that in the compromise decree, respondent No.1 who is second wife is entitled to seek employment on compassionate ground, however, petitioners claim that railway rules does not provide for appointment on compassionate ground insofar as second wife is concerned. However, placing reliance on the notification dated 30.12.2019, learned counsel for the petitioners made a statement that they are willing to provide employment to respondent No.2, i.e., son of respondent No.1. The notification dated 30.12.2019 though contemplates that second wife is not eligible to seek appointment on compassionate ground, however, the Board referring to several judgments has now resolved to provide employment to the children born to second wife.



3. Learned counsel appearing for the petitioners on instructions submits before this court that they are willing to consider respondent No.2 for appointment on compassionate ground to avoid any further inter se dispute between the parties. Therefore, respondent No.1 was called upon to file an undertaking before this court. Respondent Nos.1 and 2 have filed an undertaking in the form of an affidavit. Para 8, 8a to 8c of the undertaking filed by respondent No.1 would be relevant and the same is culled out, which reads as under:

"8. It is submitted that, myself and my son have filed the execution petition for execution and operation of Compromise Decree passed in O.S.No.49/2019 as per the Compromised Petition filed by us. In the execution proceedings the Railway authorities sanctioned the monetary benefit in favour of my son and also sanction the family pension in favour of Respondent No.3. Hence the Compromise Decree partly complied but remaining is that, Railway authorities have not accorded compassionate appointment in my favour and filed this Petition for setting aside the Compromise Decree passed in O.S.No.49/2019, on the ground that, second wife is not entitled to get the compassionate employment as per the notification of Central Government bearing



*No.E(NG)II/2016/RC-1/CR/12(Pt)dated: 30.12.2019.
Hence now I have filed this Affidavit for the modification
of the Compromise Decree passed in O.S.No.49/2019 in
terms of below.*

*a. As already my son Respondent No.2
received the monetary benefit on account of death of
my husband in service, same is given to me.*

*b. I have received the monetary benefit from
my son which was received by him from Railway
authorities. I have given no objection to my son to get
the job on compassionate ground on account of death of
my husband in service.*

*c. My son is ready to get the job on
compassionate ground on account of death of my
husband in service.”*

4. In view of the undertaking given by respondent
No.1 and further statement made by learned counsel for
the petitioners-railways, I am of the view that writ petition
needs to be allowed in part. Accordingly, I pass the
following:

ORDER

- i) The writ petition is allowed in part.



- ii) Petitioners are directed to provide employment to respondent No.2 in terms of notification dated 30.12.2019 vide Annexure-M, in view of undertaking given by respondent No.1 giving up her claim seeking appointment on compassionate ground.
- iii) This order shall be complied by the petitioners within a period of eight weeks from the date of receipt of copy of this order.

Sd/-
JUDGE