

14.05.2024.
Court No.13
Item No. 4
ap

W.P.A. No. 1865 of 2024

**Rupam Sarkar
Versus
Union of India & Ors.**

Mr. Suddhasatva Banerjee,
Mr. Sharequl Haque,
Ms. Akansha Mukherjee.

...For the petitioner.

Mr. Kalyan Kumar Chakraborty.

...For the UOI.

Mr. Rupam Naskar,
Mr. Tirthankar Basu.

...For the respondent no.9.

1. The petitioner applied for compassionate employment with the Railway Protection Force. His father, Rabindra Nath Sarkar was an Ex-Constable in Railway Protection Force/CLW/Chittaranjan, who died-in-harness on 18th July, 2021. The petitioner immediately made an application sometime in 30th December, 2021. The petitioner was screened and underwent a physical efficiency test on 28th February, 2023. He passed all of them. The petitioner's mother, namely, Pushpa Sarkar was the deceased first wife of the employee.

2. In the meantime the second wife of the deceased employee, namely, Labanya Sarkar (respondent no.9) applied for compassionate employment on 11th February, 2022 in favour of her daughter, who was a minor at the relevant point of time. The representation

of the second wife/private respondent herein dated 11th February, 2022 was considered by the I.G.-cum-Principal Chief Security Commissioner, Railway Protection Force and rejected by an order dated 15th December, 2022.

3. The rejection of the claim of the second wife was based on Railway Board's Memorandum dated 30th December, 2019 which stipulated that "*where the first wife (legally wedded wife) opts for such compassionate appointment either for herself or one of her own children, such claim will have priority over any competing claim made by the second wife for any of her children*". A copy of the said Circular dated 30th December, 2019 is available at Annexure – P/5 to the writ petition at page 21 thereof.

4. It is clear and explicit from the Circular dated 30th December, 2019 (supra) that the petitioner being the son of the first wife would have a priority over the 2nd wife and her children for compassionate appointment. This Court also notes that the second wife despite rejection of her claims by an order dated 15th December, 2022 has chosen not to challenge the same till date. She, therefore, must deem to have accepted and acquiesced to the rejection of her claims by the respondents.

5. In the backdrop of the above, this Court finds that the order dated 29th December, 2023 passed by I.G.-

cum-Principal Chief Security Commissioner, Railway Protection Force, CLW, Chittaranjan is lawful and sustainable.

6. This Court notes with anguish that despite two years lapsing from the death of the employee (the petitioner's father), the employer has been rather slow and casual in granting compassionate employment to the writ petitioner.

7. In those circumstances, the respondent nos.6 and 7 are hereby directed to issue a letter of appointment to the petitioner within a period of three weeks from the date of communication of a copy of this order mandatorily and positively.

8. The instructions of the IG-cum-Principal Chief Security Commissioner, Railway Protection Force, Chittaranjan Locomotive Works dated 16th February, 2024 filed in Court today is kept with the record.

9. The instant writ petition is allowed and disposed of.

10. There will be no order as to costs.

11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)