

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18480 of 2024

Rajnikant Ojha, male, aged about 28 years, Son of Jai Ram Ojha, Permanent Resident of Village Dariao @ Dasiaon, P.O. Kesad, P.S. Nawanagar, Dist. Buxar, then resided at Mohalla-Rampur Colony, P.S. Jamalpur-MUnger Line, bari Dariyapur Road, P.S. Jamalpur, District-Munger.

... .. Petitioner

Versus

1. The Union of India through the General Manager, Eastern Railway Fairlie Place, Kolkata, West Bengal Pin Code-700001.
2. The General Manager (Personnel) Eastern Railway, Fairlie PLace-17, Netaji Subhash Road, Kolkata, West Bengal Pin Code-700001.
3. The Divisional Railway Manager, Eastern Railway, Malda Division, Malda Town, West Bengal Pin Code-711101.
4. The Senior Divisional Personnel Officer, Eastern Railway, Malda Division, Malda Town West Bengal Pin Code-711101
5. The Senior Sectional Engineer (Loco), Eastern Railway, Jamalpur District-Munger,Bihar, Pin Code-711101.
6. The Assistant Mechanical Engineer, Eastern Railway, Sahibganj, Bihar, Pin Code-816109.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Shambhu Sharan Singh, Advocate
For the Respondents	:	Mr. Awadhesh Kumar Pandey, Advocate
		Mr. Ram Tujabh Singh, CGC
		Mr. Lokesh, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 12-09-2025

Heard Mr. Shambhu Sharan Singh, learned
counsel for the petitioner and Mr. Awadhesh Kumar Pandey,
learned counsel for the respondents.



2. In the present case, the petitioner prays for the following relief/reliefs:

“(i) For Direction / orders to the respondents to appoint the petitioner on compassionate ground in compliance of letter issued vide No. E(NG) II/2016/RC-1/CR/12 at New Delhi RBE No.218/2019 dated 30/12/2019 with subject Appointment on compassionate Ground- cases of second wife and her wards wherein it is contended that a child born to the second wife can be considered for such appointment only after ascertaining that there is no objection to this from the first wife or her children. 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 compelling claim made by the second wife for any of her children.

(ii) For direction/order to the respondents to consider the case of petitioner in the light of the case of Chandrabhanu Roy decided in CWJC No.24981/2019, dated 21.01.2020 wherein the Division Bench of Hon’ble Mr. Justice Shivaji Pandey with Hon’ble Mr. Justice Anjani Kumar Sharan has been pleased to direct the Railway to consider the matter as per change policy of Railway vide Circular RBE No.218/2019 dated 30/12/2019 and the Railway ultimately decided to consider the case of Chandrabhanu Roy and he is got appointment who is working at present in the Railway Department as such the



petitioner may kindly be considered for his compassionate appointment.

(iii) For direction / order to the Respondents to provide other consequential relief/reliefs for which he is entitled.

(iv) For quashing the order dated 16.05.2018 passed in O.A. No. 050/00910 / 16 passed by Jayresh V. Bhairaiva, Judicial Member, CAT, Patna since the matter of compassionate appointment was heard and rejected as per earlier circular of Railway Board.

(v) For the other relief / reliefs as your Lordships may be deem fit and proper in the facts and circumstance of the case in the ends of Justice.”

3. Admittedly, the Central Administrative Tribunal has passed the order dated 16.05.2018 in O.A. No.050/00910/16, whereby the compassionate appointment of the son of the second wife was denied, taking note of the circular of the Railway Board dated 02.01.1992.

4. Learned counsel for the petitioner submits that the said notification dated 02.01.1992 has been superseded by notification No. E(NG)II/2016/RC-1/CR/12(Pt) at New Delhi RBE No.218/2019 dated 30.12.2019, which is reproduced hereinbelow:

“RBE No.218/2019

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**



No. E(NG)II/2016/RC-1/CR/12 (Pt) New Delhi, dated 30.12.2019

The General Manager (P)

All Indian Railways/Pus

(As per standard mailing list)

Sub: Appointment on Compassionate Grounds – cases of second wife and her wards.

Attention is invited to Board's letter No.E(NG)II/91/RC-1/136 dated 02.01.1992 (RBE No. 1/1992) wherein it has been laid down that in the case of railway employee dying in harness, etc. leaving more than one widow along with children born to the second wife, while settlement dues may be shared by both widows due to Court orders or otherwise on merits of each case, appointment on compassionate grounds to the second widow and her children are not be considered unless the administration has permitted the second marriage in special circumstances, taking into account the personal law, etc.

2. In the case of Union of India vs. V.R. Tripathi, the Hon'ble Supreme Court had, vide their order dated 11.12.2018 in OA No. 12015/2018 (arising out of SLP(C) No. 32004/2016) dismissed on merits the Appeal filed against the Hon'ble Bombay High Court's Order in WP No. 910/2015 and in WP No.892/2015 in two Central Railway cases that permitted consideration for grant of compassionate appointment to the child of the 2nd wife of the deceased Railway employee. Subsequently, several other judgements of Hon'ble High Courts have been received in which consideration for grant of compassionate ground appointment to a child born to the 2nd wife of the employee has been directed based on similar ratio.

3. The matter has, therefore, been reviewed by Board in view of above Judicial pronouncements considering also the views of the Central Agency Section of the Ministry of Law & Justice. In partial supersession of Board's Circular No. E(NG)II/91/RC-1/136 dated 02.01.1992 (RBE No. 1/1992) referred to, it has now been decided that children born to be second wife may also be considered for compassionate appointment even where the second marriage has not been specifically permitted by the administration. However, since



compassionate appointment after demise of the Railway employee can be considered for granting to only one dependent family member on merits, a child born to the second wife can be considered for such appointment only after ascertaining that there is no objection to this from the first wife or her children. 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.

Sd/-

(M M Rai)

*Joint Director, Estt.(N) II
Railway Board”*

5. Learned counsel for the petitioner submits that in light of the aforesaid notification dated 30.12.2019, the petitioner is entitled for consideration for appointment on compassionate ground.

6. The said fact, for the first time, has been raised before this Court. Hence, we are of the considered opinion that let the matter be adjudicated by the Tribunal at the first instance. The petitioner has further relied upon the order of the Hon'ble Apex Court dated 24.02.2022 in the case of **Mukesh Kumar & others Vs. Union of India** (Civil Appeal No.1620 of 2022 arising out of SLP(C) No.18571 of 2018).

7. Considering the aforesaid facts and circumstances of the case, the order under challenge dated 16.05.2018 is set aside. The matter is remitted back to the Tribunal for re-consideration in the light of the notification



dated 30.12.2019 and the order dated 24.02.2022 passed by the
Hon’ble Apex Court in the case of *Mukesh Kumar & others*
Vs. Union of India.

8. This writ application is accordingly disposed of.

9. Pending application (s), if any, shall stand
disposed of.

(Sudhir Singh, J.)

(Rajesh Kumar Verma, J.)

Gaurav Kumar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.09.2025
Transmission Date	N.A.

