

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2793 OF 2024

Ilahi Rukum Shaikh

...Petitioner

VERSUS

Union of India and Ors.

...Respondents

....

Mr. Ajeet Manwani a/w Mr. Prasanna Lakshmi, Advocate for the Petitioner.

Ms. Sangita Yadav a/w Ms. Vishawali Botle i/b Mr. A. R. Gole, for the Respondents.

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**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

DATE : 17.07.2025

ORAL ORDER : (PER N.R. BORKAR J.)

1. This petition takes exception to the judgment and order dated 24.10.2021 passed by the Learned Central Administrative Tribunal (for short, "Tribunal") in Original Application No. 707 of 2019. By the impugned judgment and order, the learned Tribunal has rejected the claim of the petitioner for appointment on compassionate ground.

2. The father of the petitioner, late Rukum Basha Shaikh, was employed as a Pointsman at Wadi Station, Solapur Division of the respondent-Central Railway.

3. Due to the matrimonial disputes, the petitioner's father divorced the mother of the petitioner in 2003, and thereafter, in 2010, he married to Naseema Banu Shaikh.

4. On 07.06.2005, the petitioner's mother got employed with the respondents as Chief Trains Clerk on compassionate ground due to the death of her mother, Zahida Begum, who was working with the respondents.

5. The petitioner's father died in harness on 26.08.2010. Vide letter dated 09.06.2016, the petitioner's biological mother applied to the respondents to consider the petitioner for compassionate appointment. In response, vide office note dated 19.06.2016, the respondents sought no objection of the petitioner's stepmother for the same. Accordingly, affidavit dated 12.09.2018 of the petitioner's stepmother affirming her no objection was submitted to the respondents. Thereafter, by order dated 11.07.2019, the respondents rejected the claim of the petitioner for appointment on compassionate ground. The petitioner being aggrieved by the said order filed Original Application No. 707 of 2019 before the Tribunal. By the impugned judgment and order the tribunal has dismissed the original application.

6. We have heard the learned counsel for the petitioner and learned counsel for the respondents.

7. The learned counsel for the petitioner submits that the Tribunal erred in observing that the claim of the petitioner for compassionate appointment is a stale claim. It is submitted that the petitioner at the time of the death of his father was 11 years old. It is submitted that on attaining majority the application was filed. It is further submitted that the stepmother of the petitioner received all the pensionary benefits and therefore the finding of the tribunal that the petitioner is not in a penurious condition is not correct. The learned counsel for the petitioner has drawn our attention to the policy dated 31.10.1986 framed by the Railway Board regarding compassionate appointment. According to the said policy even if the father and mother are both railway employees on the death of the father in harness the claim of his ward can be considered for compassionate appointment even if the mother is still employed with the railways. It is submitted that the biological mother of the petitioner was appointed on compassionate ground in place of her deceased mother. It is submitted that, thus the contention of the

respondents that there cannot be two appointments in one family on compassionate ground cannot be sustained. It is submitted that the order of the tribunal thus needs to be set aside and the respondents need to be directed to consider the claim of the petitioner for appointment on compassionate ground.

8. On the other hand, the learned counsel for the respondents submits that the biological mother of the petitioner has already been provided appointment on compassionate ground. It is submitted that according to the policy appointment on compassionate ground cannot be granted to more than one dependent in the same family. It is submitted that the father of the petitioner died in harness on 26.08.2010. It is submitted that the application was thereafter made on 09.06.2016. It is submitted that the Tribunal has thus rightly concluded the claim to be stale claim. It is submitted that the stepmother of the petitioner received the entire pensionary benefits and the biological mother of the petitioner is employed with the respondents and therefore the tribunal has rightly concluded that the condition of the petitioner cannot be considered to be penurious.

9. The objective of compassionate appointment is to grant immediate relief to the dependents of the deceased employee who are in distress due to the loss of a breadwinner. It is well settled that after a lapse of a reasonable period from the death of the sole breadwinner, compassionate appointment cannot be claimed and offered after the crisis is averted and the dependent family has been able to tide over the difficulties arising due to the death. The consideration for such employment is not a vested right which can be exercised at any time in the future.

10. In the present matter, admittedly, the stepmother of the petitioner received the entire retirement benefits. The biological mother of the petitioner is working with the respondents. The tribunal has thus rightly concluded that the condition of the petitioner cannot be considered to be penurious. Considering the overall facts and circumstances, we are not inclined to interfere with the impugned judgment and order of the tribunal.

11. The present petition is dismissed.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)