

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

WRIT PETITION NO.8213 OF 2025

The Central Manager,
Central Railway, Mumbai & Anr.

.. Petitioners

Vs.

Ms. Padma Hemareddy Kotgiri

.. Respondent

...

Mr. A. A. Garge, Advocate for the Petitioners.

Ms. Linet K. Jadhav a/w Ms. Olivil S. Nadar, Advocates for the Respondent.

...

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 23rd DECEMBER 2025.

P.C. :

The Union of India has challenged the direction issued by the Central Administrative Tribunal, Mumbai Bench in Original Application No.617 of 2023.

2. Before the Tribunal, the applicant, who is the respondent in the writ petition challenged the order dated 28th June 2023 by which her application for compassionate appointment was rejected on the ground that (i) she is the daughter of second wife of the employee, namely, Hemareddy Kotgiri and (ii) she is not entitled to seek benefits under the Circular dated 31st December 2019, which permitted the children of second wife to seek compassionate appointment.

3. The Tribunal in its order dated 17th October 2024 referred to the decision in “*Union of India & Anr. v. V. R. Tripathi*” (2019) 14 SCC 646 and held that the children of second wife are entitled for

compassionate appointment. The order dated 28th June 2023 declining the application of the respondent for compassionate appointment was set aside and the respondent authorities were directed to decide her application in accordance with law within six months. The Tribunal, however, made it clear that all contentions of the parties are kept open, but the respondent-authorities shall not reject the application for compassionate appointment on the ground that the respondent is the daughter of second wife. The Tribunal held as under :-

“10. In this view of the matter, OA will have to be allowed. Accordingly, OA is allowed. The order of the respondents dated 28th June, 2023 stands set aside. The respondents shall consider and decide the application of the applicant for appointment on compassionate ground in accordance with law and on the basis of extant Circulars within a period of six months from the date of receipt of a certified copy of this order. All the contentions of both the parties are kept open. It is made clear that the respondents shall not reject the application on the ground that the applicant is the daughter of the second wife. Pending Mas, if any, stand disposed of. No costs.”

4. This is not in dispute that Hemareddy who was an employee of the Central Railways died in harness on 9th April 2009. The application for compassionate appointment made by his son was not decided and the respondent's application, as noticed above, has been dismissed on the aforementioned grounds. In “V. R. Tripathi”, the Hon'ble Supreme Court held that the exclusion of a child born from a second marriage from seeking compassionate appointment under the terms of the Circular of the Railway Board is *ultra vires*. In the said case, the Hon'ble Supreme Court referred to the decisions of the Calcutta High Court and Madras High Court. It was held that section 16(3) of the Hindu Marriage Act, 1955 does not affect the principle declared in sub-section (1) of section 16 in regard to the legitimacy of the child born from a marriage which is null and void.

As to the applicability of Circular dated 31st December 2019, we may indicate that the claim of the respondent was required to be considered in the light of the Circular which was applicable on the date of consideration and not on the basis of the Circular which was applicable at the time of death of the employee. A claim for compassionate appointment is required to be considered within the four corners of the extant Rules, Circulars, Notifications etc. The scheme for compassionate appointment being a measure akin to beneficial legislation is required to be implemented in a manner that furthers the object behind the scheme. Notwithstanding the scheme for compassionate appointment being an exception to the Constitutional provisions under Article 14 and Article 16 of the Constitution of India, a claim for compassionate appointment should not be declined in a manner which frustrates the object behind the scheme and on technical grounds.

5. For the aforesaid reasons, we are not inclined to interfere with the order, accordingly, Writ Petition No.8213 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]