

In The High Court Of Judicature At Allahabad
Sitting At Lucknow

Neutral Citation No. - 2025:AHC-LKO:9555-DB

Court No. - 1

Case :- WRIT - A No. - 1815 of 2025

Petitioner :- Shanti Yadav

Respondent :- U.O.I. Thru.Secy.Ministry Of Railways, Lko.

Counsel for Petitioner :- Vinay Misra

Counsel for Respondent :- A.S.G.I.

Hon'ble Attau Rahman Masoodi J.

Hon'ble Subhash Vidyarthi J.

1. Heard Sri Vinay Mishra, learned counsel for the petitioner and Sri S.B. Pandey, the learned Deputy Solicitor General of India assisted by Sri Varun Pandey, learned counsel for the Union of India.
2. By means of the instant writ petition filed under Article 226 of the Constitution of India, the petitioner has challenged the validity of the judgment and order dated 03.01.2025 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow in Original Application No. 332/00490/2023.
3. The aforesaid original application was filed by the petitioner challenging the validity of the order dated 28.08.2023 passed by the Senior Divisional Personnel Officer, North Eastern Railway, Lucknow rejecting the petitioner's claim for compassionate appointment consequent to the death of her father Late Ram Pyare Yadav, who died while serving as a coupling Khalasi on 26.10.2010 leaving behind his widow, two sons and an unmarried daughter (the petitioner). It is stated in the impugned order that as per the relevant establishment Rules and guidelines

issued by the Railway Board, the widow of a deceased employee has the first right to seek compassionate appointment. If she is not capable or willing to serve, she may recommend anyone of her children for compassionate appointment.

4. In the present case, the widow of the deceased had requested for giving appointment to the deceased's elder son namely Sri Shiv Shankar Yadav and she reiterated the aforesaid request in writing on 03.02.2014. Therefore, Sri Shiv Shankar Yadav was considered for compassionate appointment but he was not found to be eligible for appointment as he could not produce his High School certificate. It is further stated in the order dated 28.08.2023 that the deceased employee had nominated the petitioner and his elder son namely Sri Shiv Shankar Yadav for receiving the final payments post his death and that he had executed a registered Will, wherein, he had stated that the petitioner would be entitled to get compassionate appointment after his death, but compassionate appointment cannot be given on the strength of a Will.
5. The petitioner challenged the aforesaid order dated 28.08.2023 by filing Original Application No. 332/00490/2023. The Tribunal held that the petitioner was not given compassionate appointment because the relevant Rules do not provide for compassionate appointment on the basis of the last Will executed by the deceased employee and the Tribunal agreed with this reasoning. The Tribunal further held that the petitioner's brother Sri Shiv Shankar Yadav had been called for an interview for compassionate appointment but he had not been appointed. As per the Tribunal, Sri Shiv Shankar Yadav was a necessary party to the original application and the application was bad for non-joinder of a necessary party.

6. Although the Tribunal noted the fact that the petitioner had previously filed Original Application No. 332/00608/2019 directing the opposite parties to reconsider the petitioner's claim for compassionate appointment, there is no mention of any reconsideration of the petitioner's case in the impugned order. However, the Tribunal has not dealt with this submission made on behalf of the petitioner.
7. The record reveals that the petitioner's father Late Ram Pyare Yadav had executed his last Will on 19.06.2009 and he had got it registered in the office of the Sub-Registrar-V, Lucknow on 20.06.2009. He had written in his Will that he was not keeping well; he had his wife Smt. Kanta Yadav, two sons Rajendra Yadav aged about 25 years and Shivam Yadav aged about 20 years and a daughter Kumari Shanti (the petitioner) aged about 23 years. He further stated that the petitioner was taking good care of her parents. He bequeathed his house to his sons and his daughter in equal shares. He bequeathed Rs. 250000/- from his service benefits to the petitioner for her marriage and the remaining amounts were bequeathed to both his sons and the petitioner in equal shares. He further stated that he had made the petitioner a nominee in his service records and in case of his death while he was in service, the petitioner would be entitled to seek appointment on compassionate basis. He further stated that his wife Smt. Kanta Yadav was not in a good mental state and for this reason she would get merely the family pension after his death and no moveable/immovable property was given to her as she was not capable of looking after herself or any property.
8. After the death of the petitioner's father, the petitioner applied for compassionate appointment but her mother made a request for giving compassionate appointment to the petitioner's brother

Sri Shiv Shankar Yadav. The petitioner initially filed Original Application No. 332/00057/2015 in the Central Administrative Tribunal, Lucknow Bench, Lucknow which was disposed off by means of an order dated 25.9.2019, directing the respondents to decide the petitioner's representation dated 16.01.2015 for giving compassionate appointment to her.

9. Thereafter, the Senior Divisional Personnel Officer passed an order dated 25.09.2019 rejecting the petitioner's representation for grant of compassionate appointment on the ground that her mother is deaf and dumb and that she had given in writing on 05.02.2014 that she wants her son Sri Shiv Shankar Yadav to be appointed on compassionate ground, but Sri Shiv Shankar Yadav is merely a class 8th pass. The order also stated that the petitioner had produced a Will in her favour but compassionate appointment cannot be granted on the basis of a Will.
10. The petitioner had challenged the aforesaid order dated 25.09.2019 by filing Original Application No. 332/00608/2019 which was allowed by means of the judgment and order dated 06.07.2023 in the following terms :-

“9. Keeping in view of the Will dated 20.06.2009 executed by deceased employee Ram Pyare Yadav and affidavit submitted by respondent no. 3 in favour of the applicant and widow of the deceased being deaf and dumb, it would be appropriate to direct the respondents to reconsider the case of the applicant for compassionate appointment.

10. Accordingly, OA deserves to be allowed and is allowed. Impugned order dated 25.09.2019 is hereby quashed. Respondents/competent authority are directed to reconsider the claim of the applicant for compassionate appointment in accordance with law and rules by a reasoned and speaking order within three months from the date of receipt of a certified copy of this order under intimation to the applicant”.

11. It is in purported compliance of the aforesaid order dated 06.07.2023 passed by the Tribunal, that the Senior Divisional Personnel Officer passed the order dated 28.08.2023 whereby he again rejected the petitioner's representation for compassionate appointment for the same reasons which had been mentioned in the earlier rejection order dated 25.09.2019, which order had been set aside by the Tribunal by means of the judgment and order dated 06.07.2023 passed in Original Application No. 332/00608/2019.
12. When the reasoned order passed by the opposite parties rejecting the petitioner's claim for compassionate appointment was set aside by the Tribunal and the matter was remanded for reconsideration, the matter had to be reconsidered keeping in view the observations made in the order of the Tribunal and it was not open for the authorities to reject the petitioner's claim once again for the same reasons, which had not found favour of the Tribunal.
13. Even on merits, the petitioner's claim has been rejected on the ground that compassionate appointment cannot be claimed on the basis of a Will. Even if the Will is ignored, it is not in dispute that the petitioner is the daughter of the deceased employee. A daughter is fully entitled to claim compassionate appointment even if there is no Will executed by the deceased employee in her favour. Her claim could have been rejected if any other dependent family member of the deceased was found to be more suitable for giving compassionate appointment, which is not the case here.
14. The widow of the deceased is deaf and dumb and she had sought compassionate appointment for her elder son Sri Shiv Shankar Yadav. Sri Shiv Shankar Yadav is merely a class 8th pass

and he is not qualified to be appointed. The petitioner's qualification for compassionate appointment is not disputed. When any other member of the deceased employee family has not been found eligible for compassionate appointment and being the daughter of the deceased and also possessing the requisite qualification, the petitioner was entitled for being appointed on compassionate basis, her claim could not have been rejected for the sole reason that her mother had sought compassionate appointment for her ineligible brother, although the deceased employee had expressed his desire in his last Will that after his death, the petitioner would be entitled to compassionate appointment.

15. Therefore, we are of the considered view that the reasons assigned for rejection of the petitioner's claim in the impugned judgment and order dated 03.01.2025 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow in Original Application No. 332/00490/2023 are not sustainable in the eyes of law. The Central Administrative Tribunal has rejected the Original Application without adverting to the aforesaid aspects of the matter, which vitiates the order dated 03.01.2025 passed by the Tribunal.
16. Accordingly, the Writ Petition is **allowed**. The judgment and order dated 03.01.2025 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow in Original Application No. 332/00490/2023 as well as the order dated 28.08.2023 passed by the Senior Divisional Personnel Officer, North Eastern Railway, Lucknow rejecting the petitioner's claim for compassionate appointment are set aside.
17. The respondent no. 3 i.e. Senior Divisional Personnel Officer, North Eastern Railway, Lucknow is directed to pass fresh orders

on the petitioner's claim for compassionate appointment in view of the observations made in this order, within a period of one month from the date of receipt of a certified copy of this order.

18. It is made clear that the petitioner's claim will not be rejected for the reasons contained in the order dated 03.01.2025 and her claim will be reconsidered on its merit in accordance with the relevant law.

(Subhash Vidyarthi J.)

(A. R. Masoodi J.)

Order Date: 13.02.2025

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