

(2024) 02 CAT CK 0015

In the Central Administrative Tribunal

Case No : Original Application No. 203, 97 Of 2020

Brajman, S/o Late Madhuban

APPELLANT

Vs

General Manager, SEC Railway, Bilaspur Zone, GM Office,
Bilaspur ? 495004 & Ors.

RESPONDENT

Date of Decision : 09-02-2024

Acts Referred:

Citation : (2024) 02 CAT CK 0015

Hon'ble Judges : Akhil Kumar Srivastava, Member, J; Kumar Rajesh Chandra, Member A

Bench : Division Bench

Advocate : B.P. Rao, Siddharth Rathod

Final Decision : Dismissed

Judgement

Akhil Kumar Srivastava, Member J

1. The applicant is challenging the letters dated 16.08.2019 (Annexure A-15 and 29.11.2019 (Annexure A-16) by which his case for appointment on compassionate ground has been rejected by the respondents.

2. The undisputed facts of the case are that father of the applicant was working with the Railways and passed away on 22.06.2004. The mother of the applicant was also working with the Railways at that time and later on passed away on 22.12.2016. The father of the applicant is alleged to have two wives and, as such, for settlement of death-cum-retiral benefits of the deceased employee, both the wives have filed a succession case before the competent Civil Court. On 01.09.2009, an award was passed by the Civil Court declaring the applicant's mother and the applicant as the legal successor and heir of the deceased and eligible for getting all settlement dues of the deceased employee. Based on the above, all the settlement dues were paid to mother of the applicant including family pension and the applicant was also nominated for employment assistance.

3. The ground for rejecting the claim of the applicant other than delay in

submitting the application for compassionate appointment is that the applicant was married at the time of death of the deceased employee and was residing with his own family and, therefore, cannot be construed as dependent family member of the deceased employee as per RBE No.144/2000 (Annexure R-4). Further, at the time of death of applicant's father, mother of the applicant was also working in Railways as Female Trackman and on 07.11.2009, she was imposed with the punishment of compulsory retirement from service. Thereafter, mother of the applicant also passed away on 22.12.2016.

4. We have heard the learned counsel for the parties and perused the pleadings and the documents available on record.

5. Regarding the issue of delay in submitting the application for compassionate appointment, learned counsel for the applicant has relied upon one Railway Board's circular RBE No.144/2000 (Annexure A-17), as per which, cases up to 20 years old can also be considered. He further placed reliance on one order passed by this Tribunal in Original Application No.203/00291/2016 decided on 11.04.2018 (Rakesh Kumar Jangde vs.South East Central Railway & others), wherein the application though belatedly made by the person after acquiring the succession certificate was entertained by this Tribunal and it was held that the child born from the second marriage is also entitled for compassionate appointment. Learned counsel pointed out that the order passed by this Tribunal in the aforesaid Original Application has also been affirmed by the Hon'ble High Court of Chhattisgarh, Bilaspur.

6. Learned counsel for the respondents argued that the applicant was married at the time of death of his father and does not fall within the meaning of dependent family member. Therefore, there is no question to consider him for appointment on compassionate ground.

7. We have considered the rival submission of the parties and also perused the circulars and the judgments relied upon by them in support of their contention.

8. It is not in dispute that the applicant was married at the time of death of his father who died in harness on 22.06.2004. It is also not in dispute that the applicant is the child born from the second wife of the deceased employee. While the case of the respondents is that the application for appointment on compassionate ground was submitted in the year 2013, i.e. after a lapse of nine years from the date of death of deceased employee, it is the stand of the applicant that after getting succession certificate in his favour, the applicant had applied for appointment on compassionate ground.

9. The issue regarding grant of employment assistance to the ward of second wife has been extensively considered by this Tribunal in the case of Rakesh Kumar Jangde (supra) and placing reliance upon its earlier order passed in the matter of Richa Lama vs. Union of India & others (Original Application No.203/00308/2017 decided on 22.12.2017), this Tribunal has held that the children of the second wife are not barred in seeking the compassionate

appointment. But here, the issue in hand is altogether different from the case referred above as the applicant in the present case was married even when the deceased employee left for his heavenly abode. The object and purpose of providing compassionate appointment is to enable the dependent members of the family of a deceased to tide over the immediate financial crisis caused by the death of the bread-earner and since the definition of dependent family member does not include the name of either married son or married daughter, as such, the applicant has no vested right to claim appointment on compassionate ground being married son.

10. In view of the analysis made hereinabove, we do not find any merit in this Original Application and the same is accordingly dismissed. No order as to costs.