

IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.4604 of 2010

1. THE UNION OF INDIA THROUGH THE CHAIRMAN RAILWAY BOARD, NEW DELHI
2. THE GENERAL MANAGER (PERSONNEL) EAST CENTRAL RAILWAY, HAZIPUR
3. THE CHIEF ADMINISTRATIVE OFFICER (CONSTRUCTION) EAST CENTRAL RAILWAY, MAHENDRU GHAT, PATNA
4. THE CHIEF ENGINEER (CONSTRUCTION) II EAST CENTRAL RAILWAY, DANAPUR, PATNA
5. THE DIVISIONAL RAILWAY MANAGER E.C. RAILWAY, DANAPUR, PATNA

.... PETITIONERS

Versus

1. MD. IMTEYAZ AHMAD S/O LATE ALIM @ ALIMUDDIN R/O VILL.- BAGHPUR, P.S.- SADISOPUR, DISTT.- PATNA
2. AHMADI KHATOON W/O LATE ALIM @ ALIMUDDIN R/O VILL.- MILKI MOHALLA, P.S.- ARRAH TOWN, DISTT.- BHOJPUR
3. ZAREENA KHATOON SECOND WIFE OF LATE ALIM @ ALIMUDDIN R/O VILL.- BAGHPUR, P.O.- SADISOPUR, DISTT.- PATNA

.... RESPONDENTS

For the Petitioners : M/s D. K. Sinha, Sr Advocate
Dr Kumar Uday Pratap, Adv.
For the Respondents : M/s Nadeem Seraj and
Satish Kr Sinha, Advocates

6 31.8.2010 Heard learned counsel for the petitioners and
learned counsel for the respondents.

The only ground for refusing compassionate appointment to the respondent was that in view of a Railway Board's circular dated 20.1.1992, the sons and

daughters of second wife are not entitled for appointment on compassionate ground unless the second marriage has been contracted with permission of the Railway authorities.

Without specifically referring to the Railway Board's aforesaid circular, a Division Bench of this Court in a case relating to Railways reported in **2002 (3) PLJR 146 (Union of India & ors. v. Central Administrative Tribunals & ors.)** held that refusal of compassionate appointment when the first wife and the second wife had shared the retiral benefits and the first wife and nobody else has any objection to claim for compassionate appointment by a child born of second wife, was unjustified.

Subsequently, with due reference to the aforesaid Railway Board's circular dated 2.1.1992 the Central Administrative Tribunal allowed the claim of compassionate appointment in favour of a child born from the second wife. That matter came before a Division Bench of this Court in CWJC No.11259 of 2007 (Union of India & ors. v. Most. Ramsakhi Devi &

ors.). After recording the submissions on the basis of Railway Board's circular dated 2.1.1992, the Division Bench quoted the views of the learned Tribunal and held that there was not justifiable reason to take a different view. That view has been subsequently followed by Division Benches of this Court in the case of (1) Union of India & ors. v. Central Administrative Tribunal & ors. CWJC No.13032 of 2006, decided on 9.7.2010 and (ii) Union of India & ors. V. Smt. Prem Lata Devi & another, CWJC No.12985 of 2008, decided on 15.1.2009.

In view of aforesaid consistent view of this Court, we have no option but to dismiss this writ petition. The writ petition is accordingly dismissed. No costs.

(Shiva Kirti Singh, J.)

(Hemant Kumar Srivastava, J.)