

SOUTH CENTRAL RAILWAY

Headquarters Office
Personnel Branch
Secunderabad.

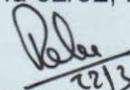
No. P[R] 268/I

Date: 22.03.2018

ALL CONCERNED

PERSONNEL BRANCH SERIAL CIRCULAR No. 52 /2018

Copy of Board's letter No.E(NG)II/2018/RC-1/5 dated 21.3.2018 is forwarded for information, guidance and necessary action. Board's letters dated 2.1.1992 and 10.04.1992 quoted therein were circulated as S.C.Nos .5/92 and 62/92, respectively.


[K.RAVI KUMAR]
Secy. to PCPO

For Principal Chief Personnel Officer

Copy of Board's ltr. No. E(NG)II/2018/RC-1/5 dated 21.3.2018 [RBE No.42/2018]

Sub: Appointment on compassionate grounds.

The issue of considering appointment on compassionate grounds (CG) to sons/daughters, born through other than first legally married wife has been engaging the attention of this Ministry for quite some time, in the backdrop of partial quashing of CG related instructions contained in this Ministry's letter dated 2.1.1992 regarding such appointments, by the Hon'ble High Court/Calcutta in the case (WPCT 20 of 2009) Namita Goldar & Ors. Vs UOI & Others.

In this regard, Railway Board has taken into account following observations of the Hon'ble Supreme Court, on the subject of CG appointment, in the case of State Bank of India & another Vs Rajkumar, (Civil appeal No.1641 of 2010):

" It is now well settled that appointment on compassionate grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the Rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is, therefore, traceable only to the scheme framed by the employer for such employment and there is no right whatsoever out side such scheme...."

Railway Board has also taken into account following observation of Hon'ble High Court of Jharkhand (Ranchi) in writ petition No. WP(S) 16 of 2014 (pronounced on 24.07.2014) " Compassionate appointment is a matter of policy of the employer and the employer cannot be compelled to provide compassionate appointment contrary to its policy/scheme. When there is specific circular which clearly provides that the children of second marriage of the employee shall not be eligible for compassionate appointment, no direction can be issued to the respondents to consider the case of the petitioner."

...2/-

4. The matter has been examined and in supersession of this Ministry's letter dated 02.01.1992 issued under RBE No. 01/1992 and No. E(NG)II/2012/RC-1/21 dated 3.4.2013, it has been decided that the first right of being considered for compassionate grounds appointment is vested, in cases of death of Railway servants while in service, with the legally wedded surviving widow provided she has not remarried at the time of making request for appointments on compassionate grounds. It is clarified that in cases of those Railway servants who are governed by the Hindu Marriage Act, 1955, there can only be one legally wedded wife/widow, as second marriage, while spouse is living, is void/voidable in view of the Section 5(1) read with Section 11 of the Act. In this respect, Railway Board's letter No.E[D&A]92 GS1-1 dated 10.04.1992 connects.

5. If aforementioned legally wedded surviving widow does not want herself to be considered for compassionate grounds appointment, she can nominate, for CG appointment, a 'bread winner' for the family from amongst the following:

- [a] In cases of those Railway Servants who are governed by Hindu Marriage Act, 1955: Son [including adopted son]; or daughter [including widowed/ adopted/ married/ divorced daughter]. However, if such Railway Servant has left sons/daughters, who have been treated as legitimate or deemed to be legitimate, under Section 16 of Hindu Marriage Act, 1955, neither widow can nominate them as bread winner for CG appointment nor such sons /daughters can claim CG appointment.
- [b] In cases of those Railway Servant who are governed by their respective Personal Laws: Son [including adopted son]; or daughter [including widowed /adopted / married /divorced daughter]. However, if such Railway Servant has left sons / daughters through second /subsequent legally valid marriages, i.e. other than through first wife and deceased Railway Servant have failed to obtain requisite permission for such second /subsequent marriage as required under Section 21 [relating to restrictions regarding marriage] of the Railway Services [Conduct] Rules, 1966, neither first widow /second/ subsequent widow can nominate such sons/daughters as bread winner for CG appointment nor such sons/daughters can claim CG appointment. Moreover, such second/subsequent widow also would not have any right to seek compassionate grounds appointment.

6. All Zonal Railway /PUs/ Units are directed to decide cases accordingly.

sd/-
[Neeraj Kumar]/DE[N]

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Board have indicated the persons who can be nominated as "bread winner" for the family, for the purpose of CG appointment, in respect of those Railway Servants governed by Hindu Marriage Act, 1955 and who are governed by their respective Personal Laws, when a legally wedded surviving widow does not want herself to be considered for compassionate grounds appointment.	52 /2018