

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCHDated the Thursday 07th day of February Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1532/2016

S. Gopalakrishnan,
S/o. Late Sukumaran,
No.2, 8th Street, Anjanayapuram,
Kakkalur, Thiruvallur Dt.

....Applicant

(By Advocate: M/s. Ralph V. Manohar & R. Ramana)

Versus

1. Union of India Rep. by
The General Manager,
Southern Railway Chennai,
1st Floor, NGO Main Building,
Southern Railway, Park Town,
Chennai- 600 003;

2. The Chief Workshop Manager,
O/o. the Chief Workshop Manager,
Loco Works, Ayanavarm,
Chennai- 600 023;

3. The Workshop Personnel Officer,
Loco Works/Perumbur,
Ayanavaram, Chennai- 600 023.

...Respondents

(By Advocate: Mrs. Meena Gnanasekar)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Applicant has filed this OA seeking the following reliefs:-

"to set aside the order dated 08.08.2016 in No. LW/Ex.Spl. Appt/S.G. rejecting the request of the applicant and consequently, direct the respondents 1, 2 and 3 to consider the applicant's case for providing him appointment on compassionate ground in accordance with the scheme for compassionate appointment and communicate their decision within a stipulated time as directed by the Hon'ble Tribunal and pass such or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. It is submitted that the applicant is the son of one late T. Sukumaran who died intestate on 20.07.2011. The respondents denied terminal benefits to the applicant and his mother, Vijayamala as there were rival claimants namely, Pushpa, S. Janarthanan and S. Mohanalakshmi claiming to be wife and children of deceased, Late T. Sukumaran. The applicant and his mother filed a Civil Suit in O.S. No. 6926/2012 on the file of the XV Asst. Judge City Civil Court at Chennai for appropriate relief. In the said suit the applicant and rival claimants, namely, Pushpa, S. Janarthanan and Mohanalakshmi were declared as legal heirs of deceased, T. Sukumaran and entitled to the terminal benefits by a judgment and decree dated 29.02.2016.
3. On receipt of the said judgment and decree, the applicant made a representation dated 04.06.2016 to the respondents requesting to be considered for appointment on compassionate grounds. The 3rd respondent passed an impugned order dated 08.08.2016 in No. LW/Ex.Spl Appt/S.G.



rejecting the request of the applicant for grant of appointment on compassionate ground on the basis of Railway Board Letter vide letter No. E(NG)11/91/RC-1/136 dated 02.01.1992 (RBE No.1/1992). Hence, he has filed the instant OA seeking the aforesaid relief.

4. The respondents have filed a reply contesting the claim of the applicant. It is stated that the applicant is the son of one T. Sugumaran, who was appointed as Khalasi on 04.10.1978 at Yard Shop, Loco Works/Perambur. He was promoted as T. Slinger, Machinist, HAS-II, HAS-I, Mistry/Inspection on various dates as per his eligibility. While working as Mistry/Inspection, he was removed from service with effect from 29.11.1991 for absenting himself for 159 days from 4.10.1989 to 11.03.1990 without adhering to leave and medical attendance Rules of the Railway Administration. On appeal, he was reinstated in service with a modified penalty of reduction of pay. He was again removed from service with effect from 31.08.2000 for absenting himself for 380 days without adhering to leave and medical attendance rules of the Railway Administration. On appeal, once again he was reinstated into service as Mistry/Inspection with a modified penalty of reduction of pay by two stages.

5. On 20.07.2011, it was reported by the Senior Section Engineer/Inspection, Loco Works, Perambur by letter No. SSE/Inspn/Staff/11/167 dated 20.07.2011 that the said T. Sugumaran, Mistry/Inspection expired on 20.07.2011. It was further stated that no family composition was available at the Inspection Office/Loc Works in respect of late T. Sugumaran. It was indicated that one Alamelu said to be the widowed mother of late T. Sugumaran was the only legal heir available



to perform the last rites of late T.Sugumaran. The applicant herein among others who were unknown to the office filed OS No 6926/2012 before the Hon'ble City Civil Court/Chennai, which declared the applicant and the defendants 1 to 3 as the lawful legal heirs of the deceased T. Sukumaran. They were entitled to the entire terminal benefits. Employment benefits were directed to be granted to the applicant as per the service rules applicable to the railway employees. However, no compassionate appointment could be granted to the applicant as RBE 01 of 1992 dated 02.01.1992 prohibited children through the second wife from being considered for compassionate appointment, it is contended.

6. Learned counsel for the applicant would argue that RBE No. 01/1992 dated 02.01.1992 had been set aside by the Hon'ble Calcutta High Court in the year 2010 and the respondents could not rely on the same anymore. He would, further produce a copy of the judgment of the Hon'ble Supreme Court in CA No.12015/2018 arising out of SLP No. 32004/2016 dated 11.12.2018 wherein it has been clearly held that once the circular dated 02.01.1992 had been struck down by the Division Bench of the Hon'ble Calcutta High Court in *Namita Goldar & Anr vs. Union of India & Ors.* [2010 (1) CLJ (Cal) 464] dated 14.07.2010 and accepted by the respondents, it was not thereafter open to the railway authorities to rely upon the same circular which has an all India force and effect. Hence it was improper on the part of the Railway Board to issue a fresh circular on 03.04.2013 reiterating the terms of the earlier circular dated 02.01.1992 even after the decision in *Namita Goldar* (supra) which had attained finality. The claim of the applicant could not, therefore, be dismissed on the strength of the aforesaid circular, it is contended.



7. A similar case had been considered by this Tribunal in O.A. 793/2016 which was disposed of by an order of this Tribunal dated 05.02.2019. It was submitted by the learned counsel for the respondents therein that the respondents would be willing to consider any representation made by the applicant for compassionate appointment on merits in the light of the aforesaid judgment of the Hon'ble Supreme Court. Accordingly, the respondents were directed to consider the representation of the applicant therein in accordance with law and on merits and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of the order.

8. In view of the above, I deem it appropriate to dispose of this case also with a direction to the respondents to review their Annexure-A/5 communication dated 08.08.2016 in the light of the law laid down by the Hon'ble Apex Court in the aforesaid case and consider the case of the applicant on merits and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order. The respondents shall be at liberty to seek any additional information from the applicant to satisfy themselves about the financial condition of the family.

9. OA is disposed of with the above direction. No costs.