

Central Administrative Tribunal
Madras Bench

OA/310/01897/2014

Dated 19th day of February Two Thousand Sixteen

P R E S E N T
Hon'ble Mr.R.Ramanujam, Member(A)

S.Rasathi
D/o late D.Soundarapandian,
No.498, Kamarajar Street,
Melnallathur, Thiruvallur 602001. .. Applicant

By Advocate M/s.M.Aswin

Vs.

1. Union of India, rep by
The General Manager,
Southern Railway,
Chennai 600003.
2. The Chief Personal Officer,
Head Quarters Office,
Personnel Branch, Chennai-03.
3. The Senior Divisional Personal Officer,
Southern Railway, Chennai-03. .. Respondents

By Advocate Mr.G.Nanmaran

ORDER

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

The applicant in this OA submits that she is the adopted daughter of one late D.Soundarapandian who worked as a Senior Trackman with the respondents. The applicant and her mother made a representation dated 7.3.2011 seeking appointment for the applicant on compassionate grounds. The respondents rejected the claim and passed the impugned order dated 27.9.2012 stating that the applicant was the step daughter of the deceased employee. When the applicant claimed that she is the adopted daughter and produced a copy of the Adoption Deed and decree in OS No.206/2011 dated 12.1.2012 of the Court of District Munsif at Tiruvallur, she was advised that she should implead the respondents in the Suit. The applicant submits that she is living with her mother Meenakshi and both were surviving only on the meagre family pension granted to the widow. The applicant accordingly prays for a direction to the respondents to grant her compassionate appointment on any regular post.

2. The respondents contest the claim on the ground that the applicant's mother had been paid Death-cum-Retirement Gratuity of Rs.6,11,104/-, Leave Salary Rs.1,85,877/-, Provident Fund Rs.20,128/-

and Group Insurance Rs.48,298/- Smt.Meenakshi, the widow of the deceased was also sanctioned enhanced family pension from 16.11.2010 to 15.11.2020 and thereafter ordinary family pension. The applicant who solemnly affirmed through an Affidavit (Annexure R1) that she was the step daughter of the deceased employee is now attempting to alter the facts of the case by claiming to be an adopted daughter by virtue of a decree from the District Munsif Court in which the respondents had not been impleaded. The Staff Welfare Inspector who inquired into the claim had informed that in the Transfer Certificate issued by the Department of School Education her father's name had been shown as R.Mani (Annexure R-II). The impugned orders are not contrary to law as no appointment could be granted to a step daughter.

3. After examining the submissions made by the rival parties and perusing the records, it was observed during the hearing on 04.09.2014 as follows:-

“The issue of the legal status of the applicant vis-a-vis the deceased employee would be relevant only if the family is indigent and grant of compassionate appointment is warranted otherwise on merits. Considering the nature of the relief claimed, we are of the view that the applicant cannot be made to wait indefinitely.

Hence, the respondents are directed to set in motion the requisite process under the scheme to consider the case of the applicant provisionally for compassionate appointment subject to the outcome

of the OA, within a period of three months. An affidavit shall be filed by the respondents regarding eligibility otherwise of the applicant under the scheme of compassionate appointment by the next date of hearing.”

4. The respondents have accordingly filed an Affidavit stating that the competent authority has carefully considered the claim of the applicant and observed that the claimant was married in the year 2008 while the employee was still alive. The claimant's husband is an earning member of her family. After the death of the said D.Soundarapandian, the widow Smt.Meenakshi had received settlement benefits to the tune of nearly Rs.8,00,000/-. Family pension was also sanctioned to her. There were no other children whose education had to be taken care of by the applicant in the family of the late D.Soundarapandian. Taking into account these relevant factors, the competent authority i.e. Divisional Railway Manager found that eventhough the applicant was the adopted daughter, she was married and there were no compelling reasons or financial crisis to offer her an appointment on compassionate grounds. Accordingly, a decision had been taken to reject the claim of the applicant by a speaking order dated 20.10.2015 (Annexure AR-I).

5. Heard the learned counsel for the applicant and the respondents and perused the pleadings and other material produced by the rival parties.

6. It is observed from the respondents' Affidavit that they have now admitted that the applicant was an adopted daughter and, therefore, her eligibility for compassionate appointment could not be contested on this ground. However, the respondents are correct in stating that there is no vested right in claiming compassionate appointment regardless of the financial situation and that each case had to be examined on merits. In their reply to the OA, the respondents had submitted that there was no dependency factor as the applicant was married and settled with her family. The family of the deceased employee had been paid the entire settlement benefit and the widow had been granted enhanced family pension. The employee also died at the fag end of his career and there is no member other than the widow in the family. Compassionate appointment is not a source of recruitment and it could not be claimed as a matter of right. The applicant has not furnished any justifiable reasons for offering her any compassionate appointment.

7. The following provisions in the Master Circular dated 12.12.90 on the subject of appointment on compassionate grounds issued by the Government of India, Ministry of Railways appear to be relevant in this case.

**"PERSONS ELIGIBLE TO BE APPOINTED ON
COMPASSIONATE GROUNDS:**

Son/daughter/widow/widower of the employees

are eligible to be appointed on compassionate grounds in the circumstances in which such appointments are permissible.....The benefit of compassionate appointments may also be extended to a near relative/adopted 'son/daughter'. The eligibility of a near relative/adopted son/daughter to such appointments will be subject to the following conditions:

a) **NEAR RELATIVE:**

Such appointment is not permissible where the railway employee who had died in harness has left behind only the widow, with no son/daughter to be supported by her.....”

8. It is clear that the scheme makes a distinction between son/daughter and adopted son/adopted daughter. The category of adopted son/daughter is clubbed with near relatives to provide for special circumstances. The stipulation that such appointment is not permissible where the railway employee has left only the widow with no son/daughter to be supported by her, though not repeated under the category 'Adopted Sons and Adopted Daughters' is very much relevant to the instant case. There is no evidence to show that the applicant requires to be supported by the widow of the deceased employee for her livelihood.

9. After carefully examining the facts of the case and the speaking order dated 20.10.2015 at Annexure AR-I, I am satisfied that the respondents have rejected the claim of the applicant on valid grounds

after duly applying their mind to the facts of the case. I, therefore, see no reason to interfere in the matter and direct the respondents to act otherwise. The OA is devoid of merits and is accordingly dismissed. No order as to costs.