

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

OA/310/00980/2019

Dated the 3rd day of January, Two Thousand Twenty

CORAM: HON'BLE MR. T. JACOB, Member (A)

M.Sandhya, D/o. Late G. Mohan,
371, Rajammal Street,
Kumpinipet, Melapakkam,
Arakkonam, Vellore 631002.

....Applicant

By Advocate M/s. R. Meenakshi

Vs

1. The General Manager,
Southern Railway,
Head Quarters Office,
Park Town, Chennai 600003.

2. The Principal Chief Personnel Officer,
Headquarters Office,
Personnel Branch,
Southern Railway, Chennai 600003.

....Respondents

By Advocate M/s. K. Vijayaragavan

ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs-

"To call for the records pertaining to the letter dated 03.06.2019 issued by the 2nd respondent in proceedings PB/CS/30/Representation/Vol.XIII by which her request for an appointment in Railway Department on compassion grounds as a legal heir being only daughter of her deceased father Shri. G. Mohan, Tech.I/SSE/DsI/TNP of Southern Railway was rejected and quash the same directing the respondents to grant an appointment in Railway department on compassionate grounds based on her educational qualification and pass such further or other order as this Hon'ble Court may deem fit and necessary under these circumstances of the case and thus render justice."

2. The brief facts of the case as stated by the applicant are as follows:

The applicant's father while working as Technician Gr.1/DSL/TNP died in harness on 10.10.2015. The applicant is the only daughter to her father. The applicant's mother sent applications dated 29.12.2015 and 21.01.2016 to the respondent department requesting to appoint the applicant in the Railways on compassionate grounds. The respondent's department vide letter No.M/PB/CS/22/128/2015 dated 16.08.2016 rejected her request on the ground that there is no merit for consideration. Further the respondent's letter dated 09.01.2019 intimated that as per the existing rule, the minimum educational qualification required for appointment in Railways is 10th pass or ITI or equivalent or national Apprenticeship Certificate. At that time, the applicant had not completed 10th Std and the respondent stated that her case will be considered as

and when the Railway Board changed the minimum educational qualification. The applicant's mother sent another representation dated 24.01.2019 to the respondents stating that she could not take up any appointment considering her age and health condition. The applicant is the only daughter to her and staying with her. Hence, her mother once again requested the respondent department to consider appointment to her daughter on compassionate ground. The respondent department vide letter No.PB/CS/30/ Representation/Vol.XIII dated 12.03.2019 rejected the representation of the applicant dated 24.01.2019. The applicant is having the qualification of 10th pass and completed one year Computer Course (HDCA) and physically fit for Govt. Service. Though, she is a married daughter, her husband has neither in job nor income for him. Further due to age factor, he has separated leaving behind her and now she is living with her mother. The applicant is to look after her mother being only daughter to her with a meagre income of pension of her mother and they are facing difficulties for livelihood. Therefore, the applicant sent another representation stating all the facts to the respondent on 10.05.2019. However, the 2nd respondent vide letter No.PB/CS/30/Representation/Vol.XII dated 3.6.2019 rejected her case. Hence, the applicant has filed this OA seeking the above reliefs, inter alia on the following grounds:-

- i. The respondents failed to note that the order of the 2nd respondent is against law, weight of evidence and all probabilities of the case.
- ii. The respondents failed to realize that the applicant had the qualification of 10th pass and completed one year Computer course (HDCA) and

physically fit for Government. Service. Though the applicant is a married daughter, her husband has neither job nor income for him and due to age factor, he separated leaving behind the applicant. Now the applicant is living with her mother and fully depends on her.

- iii. The respondents failed to realize that in the impugned order, the 2nd respondent himself has admitted that compassionate ground appointment can be sought for in favour of married daughters also and in such cases, the competent authority should satisfy himself/herself that such appointment (married daughter) would act as the bread winner of the bereaved family. The financial status of the family of the deceased is one of the relevant factors which is taken into consideration by the competent authority while considering the case for compassionate ground appointment. But the 2nd respondent failed to genuinely consider the family condition and the financial hardship.
- iv. The respondent also failed to realize that applicant's mother could not take up an appointment considering age and her health condition. Further she had undergone hysterectomy operation and having ailment of high Blood Pressure. As the applicant is the only daughter to her and she was residing with her, the applicant deserves for compassionate appointment in the respondents department.
- v. The Hon'ble High Court of Madras in W.P.No.24964 of 2010 Mohanambal Vs Survey Department and WP No.13709 of 2009 G. Girija Vs. The District Collector, Kancheepuram, based on many Supreme Court cases, decided the cases in favour of the married daughter for compassionate appointment.
- vi. The respondents failed to note that in Civil Appeal No. 2858-2859/10 dated 30.03.2010, the Supreme Court held that “the applicant was a minor at the time of the death of his father and since the mother of the applicant applied within time, we are of the opinion that the applicant after

becoming major should have been granted compassionate appointment”. By applying the above judgment the Hon'ble High Court of Madras allowed the Writ Petition No. 24964/2010.

3. The respondents have filed a detailed reply statement in which it is stated that the applicant was married on 06.02.2003 (i.e, 12 years prior to the death of the Government employee) and well settled. The Assistant Personnel Officer in his report dated 06.07.2016 brought out that the applicant was living with her husband and that her husband had purchased a mini bus for his self employment and that the property in which the members of the family are staying at Arakkonam is their own property and built during 1999 by the deceased employee and that the financial situation was comfortable as the applicant gets Rs. 10,000/- from her husband. Apart from this, the family received a sum of Rs.10,69,245/- (Rupees Ten Lakhs Sixty Nine Thousand and Two hundred and Forty Five only) as settlement benefits and the widow was sanctioned enhanced family pension at the rate of Rs.7145 plus relief till 2025. Thus, the family is financially in a comfortable position and does not require an appointment to the married daughter. It is seen that the deceased employee died at the age of 55 years and by that time, he had completed all the social and financial obligations of the family and this fact is proved by the marriage of the applicant which held in the year 2003. At that time of the death of the railway employee, there was no dependents in the family of the railway employee. Moreover, the applicant did not acquire the minimum educational qualification at the time of consideration and therefore the applicant's case was rejected vide letter No.PB/CS/

Representation/Vol.XIII dated 09.01.2019. Further, vide letter No. PB/CS/Representation/Vol.XIII dated 12.03.2019, the applicant has been informed that there was no financial crisis and that the applicant was not the sole bread winner of the family. Further the applicant's case has not been rejected only on the ground of being married daughter. Even in case of married daughter the cases are considered on merits of each case depending upon the financial crisis of the family due to the death of the bread winner. In this case, the applicant is better placed and therefore, the offer of appointment on compassionate grounds is not justified. The facts of the case in WP No.24964/2010 and W.P.No.13709/2008 are distinguishable and in both the cases, petitioners were not married at the time of application and possessed qualification, whereas in the present case, the applicant was married in the year 2003 and well settled and not acquired minimum educational qualification at the time of consideration. The respondents pray for dismissal of the OA.

4. The respondents have relied on the following decisions in support of their submissions:-

- i) Judgment of the Hon'ble Apex Court in the case of Life Insurance Corporation Vs. Mrs. Asha Ramchandra Ambekar (1994 SCC [L&S] 737);
- ii) Judgment of the Hon'ble Apex Court in the case of Director of Education (Secondary) and another vs. Pushpendra Kumar and others (1998 SCC (L&S) 1302);
- iii) O.A. No.1023/2017 in the case of C. Bhagyam Vs. UOI dated 20.09.2019 of this Bench of the Tribunal.

iv) O.A. No.1338/2016 in the case of G.P. Sree Devi vs. Union of India dated 30.8.2019 of this Bench of the Tribunal.

5. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.

6. Admittedly the Railway employee died in harness on 10.10.2015 while working as Technician Grade I/DSL/TNP. The applicant and her mother are staying at Arokkonam in their own house built during 1999. The applicant is the only daughter of the deceased Railway employee. After death of the Railway employee, the applicant's mother had requested for compassionate appointment to her married daughter, M. Sandhya but the same was rejected by the competent authority by order dated 16.08.2016. This rejection of her application had not been challenged by the applicant. Instead, the applicant's mother had submitted another representation dated 24.01.2019 which was also negatived by order dated 12.03.2019 by the respondents. Thereafter the applicant made another representation to the General Manager dated 10.05.2019 which was also rejected by the 2nd respondent by order dated 03.06.2019 on the ground that the applicant could not satisfy the spinal indigent financial condition of the family and also the absence of dependency factor.

7. As a matter of fact, in respect of married daughters, a clarification has been given by the Railway Board vide order No.E(NG)III/78/RC-1/1 dated 03.02.1981 wherein it has been inter alia held as under:

Whether non-student sons above 21 years and/or married daughters can be considered for appointment on compassionate grounds.	While there is no ban according to rules, GMs should satisfy themselves that the married daughter will be the bread-winner of the bereaved family.
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8. The Railway Board has also issued circular dated 03.08.1999 according to which it is clarified as follows:-

“It is clarified that the scheme for compassionate appointments had been introduced with the intention of relieving the immediate distress sustained by the family of an employee dying in harness. Under this scheme, the widow or an eligible ward can be considered for compassionate appointment. There is nothing in the rules which prohibits a married son being considered for compassionate appointment. In cases where the wife of the employee had died before the employee expired or in cases where the widow is not in a position to take up employment, a married son, if he is otherwise eligible can be considered for compassionate appointment. Similarly, a married daughter can also be considered for compassionate appointment subject to the condition that in such cases the General Manager should satisfy himself that the married daughter will be the bread winner for the bereaved family. On the other hand, if there are no other wards to be looked after then there would be no justification for considering a married daughter for compassionate appointment.”

9. While considering the case of the applicant the above condition shall have to be kept in view. From the records, it is seen that there is no other ward of the deceased employee dependent upon him during his life time or upon the widow after his demise. In that event, if the above condition that if there are no other wards to be looked after, then there would be no justification for considering a married daughter for compassionate appointment. The reason is obvious. The widow is afforded necessary Family pension. Other terminal benefits too have

been paid to her. There being no liability, the financial condition of the widow cannot be said to be of penury in character.

10. As per Railway Board Circular No.09/2009 dated 30.01.2009, the competent authority should satisfy himself on the basis of a balanced and objective assessment of the financial condition of the family that the ground for compassionate appointment in each case is justified having regard to the number of dependents, assets, liabilities, income of any earning member of the family. In the instant case, the applicant got married while the Railway employee was in service and there are no other dependent factors to be considered. With regard to the financial condition of the family the Assistant Personnel Officer assessed the situation and submitted a report dated 06.07.2016 that the applicant's mother is getting a pension of Rs.7145 + Relief till 2025 and the applicant is getting 10,000/- from her husband and the applicant is staying along with her mother in their own house. Apart from this, the family received a sum of Rs.10,69,245/- (Rupees Ten Lakhs Sixty Nine Thousand and Two hundred and Forty Five only) as settlements benefits. The General Manager after considering the above aspects rejected the claim of the applicant for compassionate appointment based on financial status as well as the dependency criteria.

11. The Hon'ble Supreme Court in the case of Chief Commissioner, Central Excise & Customs, Lucknow vs. V. Prabhat Singh (C.A.8635/2012) has held that Courts and Tribunals should not fall prey to any sympathy syndrome so as to issue direction for compassionate appointment without reference to the

prescribed norms. Courts are not supposed to carry Santa Claus's big bag on Christmas eve to disburse the compassionate appointment to all those who seek the court's intervention. Courts and Tribunals must understand that every such act of sympathy, compassion and discretion wherein direction are issued for appointment on compassionate ground could deprive a really needed family requiring financial support and thereby push into penury a truly indigent destitute and impoverished family. Discretion is, therefore, ruled out. So are misplaced sympathy and compassion.

12. In the conspectus of the above facts and circumstances of the case and the Judgement of the Hon'ble Supreme Court, I do not see any justification to allow the OA in favour of the applicant. Resultantly, the OA is liable to be dismissed and is accordingly dismissed. No costs.

(T. JACOB)
MEMBER (A)

-01-2020

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