

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/957/2019

Hyderabad, this the 9th day of January, 2020



Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

G. Sreedhar, S/o. G. Rajaiah,
Aged about 35 years, Occ: Unemployee,
R/o. 12-10-336/17/8A, Seethaphalamandi,
Secunderabad – 500 061.

... Applicant

(By Advocate Mr. K. Siva Reddy)

Vs.

Union of India, Rep. by

1. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Principal Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad.
3. The Deputy Chief Signal and Telecommunications Engineer,
Signal and Telecommunication, South Central Railway,
Secunderabad Division, Secunderabad.
4. G. Bhavani, S/o. G. Rajaiah,
Aged about 38 years, Occ: Technician Gr. II,
In the office of the Deputy Chief Signal and Telecommunication
Engineer, Signal and Telecommunication, South Central Railway,
Secunderabad Division, Secunderabad.

... Respondents

(By Advocates: Mr. T. Samba Siva Rao, Proxy counsel
for Mr. V. Vinod Kumar, SC for Railways)

ORDER (ORAL)
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed challenging the inaction of the respondents in disposing of the representation dated 06.12.2018 and complaint regarding illegal compassionate appointment given to the respondents No.4 ignoring the case of the applicant.



3. Brief facts of the case are that the applicant is the son of late Sri G. Rajaiah, Ex-Technician Grade I. Father of the applicant died on 23.09.1998 while in service. The family consists of 6 sons and 3 daughters, who were dependent on the income of the deceased employee. Applicant passed SSC and B.Com. Hence, applicant claims that he is eligible for compassionate appointment. Applicant's mother made a representation to appoint the 4th respondent on compassionate grounds after the demise of his father. 3rd respondent has sent a letter dated 10.07.2001 to the mother of the applicant stating that the Screening Committee has observed that Sri G. Bhavani did not possess the requisite educational qualification. However, offer of appointment is open to the 5th son Sri G. Sreedhar, who is the applicant in the present OA. Due to family disputes, letter was not shown to the applicant. As per the said letter, the 4th respondent is not eligible for compassionate appointment and that, the respondents in fact kept open the offer of compassionate appointment to the applicant. The said letter has come to the light only after the demise of the mother of the applicant on 01.04.2016. After knowing about the said letter, applicant approached the respondents by making a representation on 06.12.2018 requesting to inquire

into the matter. The said representation is still pending. Aggrieved over the inaction of the respondents, the present OA has been filed.



4. Contentions of the applicant are that the respondents erred in appointing the 4th respondent, ignoring the recommendations of the Screening Committee, which was in favour of the applicant. Respondents have not taken willingness of other family members while offering compassionate appointment to the 4th respondent. 4th respondent is also not taking care of the other family members as is required under rules of compassionate appointment. Though the 4th respondent did not possess requisite qualification, offering compassionate appointment to him is irregular. As the applicant is not taking caring of other family members as is required under the rules of compassionate appointment, respondents have the power to terminate the services of the 4th respondent.

5. Respondents 1 to 3 in their reply statement confirmed that as per letter dt. 10.07.2001, Screening Committee wrote a letter to the wife of the deceased employee with the observation that Sri G. Bhavani did not possess requisite educational qualification. However, offer of appointment is open to her 5th son i.e. the applicant, who was 18 years as on 10.07.2001. Compassionate appointment which was kept open to her 5th son is not mandatory, as the leading family member has submitted application to offer compassionate appointment to her 4th son. Respondents have fairly admitted that the reasons to issue letter dated 10.07.2001 by the then authorities to the widow of the deceased Railway servant are not known at



this juncture. The Screening Committee while considering the candidature of the 4th respondent has made an observation that “the performance of Sri G. Bhavani is not satisfactory, but recommends for Gr. D post, purely on humanitarian grounds.” Consequently, compassionate appointment was given to Sri G. Bhavani i.e. the 4th son of the deceased employee. As things stood thus, respondents received a representation dated 06.12.2018 from the applicant objecting to the compassionate appointment granted to his brother Sri G. Bhavani on the ground that Sri G. Bhavani did not possess the requisite educational qualification and he should be removed and his case be considered for compassionate appointment. A notice was issued to the 4th respondent to submit his explanation on the allegation made. The 4th respondent stated that the mother expired 3 years ago and the dependent family members were all living together with the help of his income till their mother expired. Later, brothers started earning on their own and are living separately with their families after their marriages. Sisters were also married and are living separately. Only one younger brother, who is unmarried, is being taken care of by him. Applicant is married and is living separately, is one another contention of the respondents. Only one compassionate appointment can be offered to any dependent and eligible family member of the deceased employee.

6. Heard both counsel and perused the pleadings on record.

7 (I) Respondents have admitted that they do not know the reasons as to why the letter dt.10.07.2001 was issued to the wife of the deceased employee stating that the 4th respondent did not possess the requisite

educational qualifications. However, the Screening Committee has considered the case of the 4th respondent on humanitarian grounds. Though considered on compassionate grounds, yet, respondents should have followed the Rules, rather than violating them. One can be humane, but Rules of the organisation are to be respected and followed. The 4th respondent was given a show cause notice by the respondent and he has replied stating that the mother expired 3 years earlier and his brothers and sisters are now living separately after having got married. Only one younger brother is not married and is being taken care of by him.



II. Learned counsel for the applicant submitted that the respondents have not indicated as to what action they have taken on the reply submitted by the 4th respondent to the show cause notice issued. He further states that, only after the respondent authorities take action on the reply given by the 4th respondent, further adjudication can be thought of. Learned counsel for the respondents objected that the reply statement of the 4th respondent is not on record and that court notice has not been served on him. On verification of the Tribunal record, it is seen that notice was served on the 4th respondent. Hence, the 4th respondent is aware of the OA having been filed in the Tribunal. It is for him to defend his case after the notice has been served. However, in the instant case, the action taken by the respondents on the reply furnished by the 4th respondent to the show cause notice is not indicated in the reply statement of the respondents 1 to 3. Respondents have cited different judgments about compassionate appointment. They are not relevant at the moment since further

adjudication on the issue would be possible only when the respondent authorities decide on the reply of the 4th respondent to the show cause issued to him.



III. Hence, the respondents are directed to take a decision on the reply given to the show cause notice dated 11.11.2019 issued by the official respondents to the 4th respondent, within a period of eight weeks from the date of receipt of this order.

IV. OA is accordingly disposed of, with the above direction. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

/evr/