

**Central Administrative Tribunal
Hyderabad Bench**

OA No.929/2018

Hyderabad, this the 6th day of January, 2020

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

S. Mumtaj
W/o Late S. Kareem
Aged about 50 years
Occupation – Unemployed, Group D
R/o D.No.13-104/32
Gandhinagar Colony
Renigunta, Chittoor
Andhra Pradesh-517520. Applicant

(By Advocate: Shri M.V.Krishna Mohan)

Vs.

1. The General Manager
South Central Railway, Rail Nilayam
Secunderabad.
2. The Chief Work Manager
Personnel Branch
Carriage Repair Shop
Tirupati.
3. Shaik Reshma Begum
D/o Late S. Kareem
C/o D. Mohammed Basha
D.No.7-177/B
Bhagya Nagar
Guntakal. Respondents

(By Advocate: Mr. Samba Siva Rao, proxy of Shri V. Vinod Kumar, Sr. CGSC and Shri K. Siva Reddy for Respondent No.3)

O R D E R (Oral)

2. The OA is filed challenging the action of the respondents in not considering the case of the applicant for Compassionate Appointment and non-grant of pensionary benefits.
3. Brief facts of the case are that the applicant is a widow of the deceased employee Shri S.Kareem, who expired on 15.12.2016 while working as Helper-2 in the respondents organization, leaving behind the applicant and her two children by name, S/Shri Shaik Munnaa and Shaik Muneer Basha. The deceased employee married the applicant after the death of his first wife, with whom, he was blessed with a girl child by name Shaik Reshma Begum, who has been arrayed as Respondent No.3 in the OA. Respondent No.3 was married during the life time of the deceased employee and also the deceased employee mentioned the name of applicant and her sons as dependants. Applicant requested for Compassionate Appointment to her son and also settle the pension and pensionary benefits in her favour. Without considering her request, the Respondent No.3 was offered Compassionate Appointment. Even the pensionary benefits have been settled in her favour and hence, the OA.
4. The contentions of the applicant are that since Respondent No.3 was married during the life time of the deceased employee, she cannot

be treated as dependant on the deceased employee. Applicant is a legally wedded wife of the deceased employee and, hence, she is eligible for grant of family pension, pensionary benefits and also compassionate appointment for her son. In fact, the name of the applicant has been recorded in the Service Book as the wife of the deceased employee and, therefore, non grant of pensionary benefits is arbitrary and illegal.

5. Respondents in their reply statement opposed the contentions of the applicant by stating that the relationship between the elder son Shri Shaik Munnaa with the deceased Shri S.Kareem, has not been confirmed by submitting the required documents. The name of the elder son does not figure in any service record. Respondent No.3, being the daughter of the first wife of the deceased employee, a thorough enquiry was made by calling both the parties and settlement was arrived to distribute between Respondent No.3 and the applicant in equal share after obtaining their written consent and on submission of 'No Objection Certificates' by them in the form of an Affidavit. The distribution of the settlement benefits was done in accordance with Rule 75(7)(i) (a) & (b) of the Railway Services (Pension) Rules, 1993. Family pension was also granted equally at the rate of Rs.6800/- each to the applicant and the Respondent No.3. In regard to Compassionate Appointment, it is

stated that the deceased employee had never obtained permission from the competent authority nor intimated the second marriage to the respondents. The applicant had two sons Shaik Munnaa and Shaik Muneer Basha, when the marriage of the applicant with the deceased employee was registered. However, in the name of Shaik Muneer Basha was only recorded in the medical identity card by the deceased employee. Also, the applicant has neither made any request for Compassionate Appointment nor in favour of her son, in spite of repeated advice, as per letter dated 17.07.2018. The respondents claim that the cause for non-response would be that neither the applicant nor her ward had the requisite qualification for obtaining Compassionate Appointment. However, Respondent No.3, applied with requisite educational qualifications on 01.06.2018. She being unmarried and unemployed with little financial resources, her case for Compassionate Appointment was considered.

6. Heard both the counsel and perused the pleadings on record.
7. (I) There are two issues in this case; one pertains to Compassionate Appointment and the other is with regard to grant of pensionary benefits.
(II) Primarily, in regard to Compassionate Appointment, the applicant and her ward were given an opportunity to claim

Compassionate Appointment with relevant documents. However, they choose not to respond. In this regard, the respondents have stated in their reply that the reason could be that they did not have requisite qualification for Compassionate Appointment. Learned counsel for the applicant has fairly submitted that, the applicant, at this juncture, has no grievance in regard to offering Compassionate Appointment to Respondent No.3 for reasons stated in the reply statement.

(III) Now, turning attention towards the second aspect of grant of family pension and pensionary benefits, it is seen from the facts of the case that they have been distributed equally, based on the settlement arrived between the applicant and Respondent No.3. The action of the respondents to this extent is fair since they have followed the rules and taken all precautions in obtaining 'No Objection Certificate', Agreement, written undertakings/willingness, etc. from the two parties and thereupon proceeded to distribute the benefits. However, since the Respondent No.3 has been offered Compassionate Appointment vide letter dated 14.02.2019, the respondents may have to necessarily follow the relevant Rule 75(6) of the Railway Services (Pension) Rules, 1993, in regulating the family pension. The relevant portion of the said Rule [Explanation No.3 at page 74 of the Bhari's Railway Services Pension Manual, 2nd Edition 2000] is extracted below:

"75. Family Pension Scheme for railway servants, 1964: -

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(3). The family pension payable to such a son or a daughter shall be stopped if he or she starts earning his or her livelihood."

As the above Explanation is applicable to the case of the applicant, the respondents are directed to release the pensionary benefits, if any, due to the applicant and also regulate the family pension, in accordance with the rules, within three months from the date of receipt of a copy of this order.

With the above directions, the OA is allowed with no order as to costs.

(B. V. Sudhakar)
Member (A)

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