

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.86/2020

Date of Decision: 23.01.2020

CORAM: RAVINDER KAUR, MEMBER (J)

Arvind Mahantappa Kumbhar
Age 26 years,
R/at. Post Ogalewadi
Tal Karad, Dist. Satara. **Applicant**

(By Advocate Shri Vicky Nagrani)

VERSUS

1. The Union of India
through the General
Manager, Central Railway,
Central Railway CSTM,
Mumbai - 400 001.

2. Divisional Railway Manager
Pune Division, Division Office
Personnel Department
Pune - 411 001. **Respondents**

O R D E R (ORAL)

When the case was called out, heard
arguments addressed by Shri Vicky Nagrani
learned counsel for the applicant at the
admission stage. I have carefully gone through
the case record.

2. The present OA has been filed by the
applicant seeking compassionate appointment on

account of death of his father while he was working as Ex-hd Trolleyman with the respondents. The respondents rejected the application of the applicant vide order No.PA/P/Wel/CG/1443 dated 08.09.2016 on the grounds that the applicant was born to Smt Suvarna who happens to be the second wife of the ex-employee. The aforesaid order is reproduced as under:-

"Sub: Appointment on compassionate ground – case of Shri Arvind Mahantappa Kumbhar.

Ref: Your application dated 27.01.2016 for appointment of your son on compassionate ground.

With reference to your application dated 27.01.2016 for compassionate appointment of your son, Shri Arvind consequent upon death of Shri Mahantappa Basappa Kumbar on 18.05.2014, this is to inform that Shri Arvind is born of Smt Survarna who happens to be the second wife of ex-employee, Late Mahantappa Basappa Kumbar. The marriage with Shri Mahantappa does not have a legal status because the legally wedded wife Smt Bhauramma is alive. Compassionate appointment is not a vested right as it does not arise out of any law or statutory rule. Railways do give compassionate appointment to the children of their deceased employees as a welfare measure but such appointments can be given only within the Rules of the scheme framed for the purpose. As per the Rules framed by Ministry of Railways for the scheme of Compassionate Appointment, children born of second wife cannot be considered for Compassionate appointment unless the administration has permitted the second marriage, in special circumstances, taking into account the Personal law, etc. A copy of this rule dated 02.01.1992 is enclosed. Since late Mahantappa had not taken permission from the Railway Administration for engaging in second marriage and there were no grounds to do so, your request for appointment of your son, Shri Arvind to Railway service cannot be considered."

Thereafter, he made representation dated 10.05.2019 in view of the judgment of Hon'ble Apex Court in the case of Union of India and Another Vs. V.R. Tripathi, reported in 2019 (1) Scale 302 upholding the judgment of Hon'ble Bombay High Court in the case of Union of India and Another Vs. V.R. Tripathi, Writ Petition No.910/2015 decided on 01.04.2016. However, till date the respondents have not replied the representation of the applicant. Hence, he has approached this Tribunal seeking quashing and setting aside of the impugned order dated 08.09.2016 and to direct the respondents to reconsider his case in view of the law laid down by the Hon'ble Apex Court in the case of V.R. Tripathi.

3. It is also submitted that the respondents have themselves now issued Railway Board letter No.E(NG)II/2016/RC-1/CR/12(Pt) dated 30.12.2019 in view of the guidelines laid down by the Hon'ble Apex Court in the case of V.R. Tripathi (supra). The copy of which has been placed on record by learned counsel for the applicant.

4. It is submitted that the applicant now fulfills all the conditions for compassionate appointment and consequently seeks necessary

directions to the respondents in this regard.

5. It is observed that this Tribunal in an identical matter i.e. OA No.674/2015 relying upon the judgment of Hon'ble Apex Court in the case of V.R. Tripathi (supra) had issued direction to the respondents to consider the case of the applicant (therein) being the son of second wife of the ex-employee for compassionate appointment on its own merit and in accordance with the existing rules and regulations as well as the case law {V.R. Tripathi (supra)}.

6. Accordingly, the present OA is also disposed of at the Admission stage itself. In view of the judgment of Hon'ble Apex Court in the case of V.R. Tripathi (supra) and the Railway Board letter dated 30.12.2019, the respondents are directed to reconsider the case of the applicant for compassionate appointment on its own merit and in accordance with the existing rules and regulations as well as the above noted case law and the Railway Board letter dated 30.12.2019. This exercise be completed within a period of three months from the date of receipt of a copy of this order and thereafter to communicate the order to the

applicant within a period of one week. MA
No.79/2020 stands closed. No order as to costs.

(Ravinder Kaur)
Member (J)

ma.

JD
28/01/20

