

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE OF DECISION

:

12.4.90

P R E S E N T

HON'BLE SHRI S.P MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO.453/89

K.V Udayakumar

..

Applicant

v.

1. The Railway Board represented by its Chairman, Rail Bhavan, New Delhi.
2. Divisional Personnel Officer, Southern Railway, Trivandrum.
3. Divisional Personnel Officer, Southern Railway, Palghat.
4. Union of India represented by the General Manager, Southern Railway, Park Town, Madras-3.

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Respondents

Shri P.K Madhusoodhanan

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Counsel for the applicant

M/s.M.C Cherian, Saramma Cherian
T.A Rajan

..

Counsel for the respondents

J U D G M E N T

Hon'ble Shri N.Dharmadan, Judicial Member

This Tribunal time and again held that the object of compensatory or compassionate appointment is to relieve the family of the Government servant who loses his life in the course of duty or 'dies in harness otherwise while in service' or is medically incapacitated, from the financial strain with immediate effect. Earnestness in action is called ^{for} from all concerned. A belated and stale claim in this behalf cannot normally be entertained.

2. The respondents in this case are not at fault in having rejected such a claim made by the applicant, though all the reasons given in the impugned order are unsupportable.

3. The applicant's father, late T.K Vinayakan, was run over by train on 11.5.65 while he was in Railway service as IInd Grade Fireman at Cochin Harbour Terminus. His wife Smt. K.V Bhanumathy, who studied upto S.S.L.C and passed K.G.T Drawing Examination(Lower) did not immediately apply for any appointment on compassionate ground either for herself or any of the near relations. Her first claim on this ground is Annexure II, an application for compassionate appointment for his son. The application is dated 6.2.1981. According to her the son was a minor aged 4 at the time of the death of his father and he completed 18 years only in October, 1980 and she submitted an application for employment for his son on 6.2.81. This is referred to in Annexure II, which is the second in the series.

4. Since repeated representations did not give any result, the applicant filed O.A 521/88 which was disposed of by the Tribunal on 24.11.88 directing the first respondent to consider and pass orders on the representation. Annexure I order dated 7.6.89 has been passed in terms of the directions of the Tribunal, by the respondent 3 rejecting the request of the applicant. The applicant is challenging Annexure I order in this application.

5. According to the applicant all the three reasons stated in the impugned order are wrong and unsustainable. The respondents have filed a detailed counter affidavit. We are not going into the merits of the rival contentions.

6. On the facts and circumstances only question to be considered is whether the claim for compassionate appointment made by the applicant is bonafide and that the applicant deserves an appointment on this ground.

7. As indicated above the mother of the applicant though an educated lady did not stake any claim for compassionate appointment after the death of her husband. She thought it fit to try it for her son who was a minor at the time of the death of the father. He became major according to her in October 1980. Neither the applicant nor his mother made any request for appointment on this ground immediately on the attainment of majority of the applicant. An application was submitted in this behalf for appointment only on 6.2.81 $\frac{1}{2}$ (Annex.II) Though in Annexure II representation the mother of the applicant mentions about an earlier representation dated 28.10.1980, no proof for having submitted such representation was produced before us. Some of the acknowledgment cards produced by the learned counsel for the applicant at the time of the hearing to support his case, that earlier applications for compassionate appointment of her son had been sent, cannot be accepted in the light of the evidence produced by the respondents. Along with the counter affidavit the respondents produced Ext R1(a) to R1(c) to establish that the applicant himself had not made by request for appointment before 1985. There is no satisfactory explanation for this long delay. Ext R1(a) and R1(c) are representations filed by the applicant. In these representations he did not make mention of any of the prior requests nor did he give any satisfactory or convincing reason for his keeping quiet for about five years. In the meantime it is also seen that the applicant's mother got some other employment in a Panchayath. This indicates that she did not care to approach the Railway for getting any employment from the Railway on compassionate ground. From these facts

we are of the view that the applicant and his mother were not very keen in getting the compassionate appointment from the Railway. The delay defeats their claim.

8. According to the respondents the mother of the applicant was appointed as Panchayath Officer of Eloor Panchayat in 1973 and she is continuing in that job and it can be presumed that the family is not in distress at present.

9. Under these circumstances the applicant's claim for compassionate appointment cannot be accepted even though the reasons given by the respondents in the impugned order are not satisfactory. Accordingly we are dismissing the application but without any order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER

12.4.90


(S.P. MUKERJI)
VICE CHAIRMAN

12-4-90

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