

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No.467 OF 2006

Wednesday this the 7th day of February, 2007

CORAM :

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

1. K.Chinna Thai.
Chingalpady Village & Post,
Pappireddipatti Village,
Dharmapuri District
2. K.Manula.K
Chingalpady Village & Post,
Pappireddipatti Village,
Dharmapuri District : **Applicants**

(By Advocate Mr. T.C.Govindaswamy)

Versus

1. Union of India represented by General Manager
Southern Railway, Headquarters Office
Park Town PO
Chennai - 3
2. Chief Personnel Officer
Southern Railway, Headquarters. Office,
Park Town PO, Chennai-3
3. Senior Divisional Personnel Officer
Southern Railway, Palakkad Division,
Palakkad. : **Respondents**

(By Advocate Mr. P.Haridas)

The application having been heard on 07.02.2007, the
Tribunal on the same day delivered the following :

ORDER

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

One N. Kuppan was working as a Senior Trackman in
Palghat Division. He had a daughter who is the second applicant
in this OA. The said daughter was married and as there were
some differences between the daughter and her husband, she
had made a police complaint as early as 13.02.1999 to the Sub

Inspector, All Women Police Station, Dharmapuri District which was registered as C.C.No. 90 of 1999. Since then the second respondent has been residing in her maternal house. While so, the said N. Kuppan expired on 12.10.2003 while in office. The terminal benefits etc. were paid to the widow of said N.Kuppan. In 2004, the second respondent and her husband moved a consent divorce petition under Section 13 B of the Hindu Marriage Act, 1965 before the Subordinate Judge, Dharmapuri which was registered as MOP 28 of 2004. After due consideration the Court has awarded the decree of divorce vide Annexure A-7 order dated 02.07.2004. The first applicant, the widow of late N.Kuppan, moved a representation to the respondents for grant of compassionate appointment to her lone daughter, the second applicant. However, the respondents have rejected the same as according to them, the second applicant cannot be treated as dependent of late N. Kuppan since the divorce was sought and obtained only after the demise of late Kuppan. The applicant therefore, has filed this OA praying for a direction to the respondents to consider the case of the second applicant for appointment on compassionate grounds commensurating with her seniority and qualification and grant her the consequential benefits thereof within a time frame that may be calendered by this Court.

2. Respondents have contested the OA. According to them, late N.Kuppan nowhere furnished the name of second applicant as one of the family members. Even the mother of

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applicant No.2 while furnishing application for family pension did not reflect the name of second applicant in the list of surviving family members of N.Kuppan. Again as per the Railway Board letter dated 03.02.1981 (Annexure R-5) though the Railway Board have decided that the cases of dependent / divorced / widowed daughter should also be considered for appointment on compassionate grounds as in the case of married daughters, such cases are to be considered only if the applicant has been wholly dependent on the ex-employee at the time of the latter's death/medical invalidation. In the instant case, as the second respondent did not divorce her husband at the time of the demise of the Railway employee she cannot be stated to be dependent upon the demised employee at the time of his death and therefore, the applicant No.2 does not come within the provisions of rules and regulations for being considered for compassionate appointment.

3. In the rejoinder, the applicants have annexed copy of notification dated 03.02.1981 as per which there is no ban according to the rules to consider married daughters subject only to the condition that such married daughters will be the bread winner of bereaved family.

4. Arguments were heard and documents perused. According to the regulations the widowed daughter is treated at par with married daughters for the purpose of compassionate appointment and the attendant conditions are as under :-

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- (a) Such widowed / divorced daughters should have been dependent upon the deceased government servant.
- (b) On the analogy that married daughters could be considered for appointment provided they will be the bread winner of bereaved family, an identical situation should be available even in respect of divorced daughters.

5. In the instant case there has been a documentary proof to the effect that right from 1999 applicant No.2 had been residing with her parents. The Railway employee expired only on 2003, four years after his daughter (2nd applicant herein) was living with him. As such, notwithstanding the fact that there is no divorce application much less decree of divorce at the time when the railway employee expired, the condition that the divorced daughter was living with the railway servant is sufficient to meet the requirement that the divorced daughter is dependent upon the deceased government servant at the time of latter's demise. As regards the other condition that such daughters can be considered for compassionate appointment if they happened to be the bread winner of the bereaved family to a pointed question to the applicant's counsel is to whether the applicant No.2 is the lone offspring of the deceased government employee, the answer has been in affirmative. As such, the bereaved family viz., the widow of the deceased railway employee has only divorced daughter as another member of the family and she would be the bread winner of the bereaved family.

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6. In view of the fact that the aforesaid conditions stand complied with in this case, the OA is allowed and order dated 30.01.2006 (Annexure A-1) by which the respondents have rejected the claim of the applicants for compassionate appointment to applicant No.2 is hereby quashed and set aside. The respondents are directed to register the name of the 2nd applicant for compassionate appointment in accordance with the rules and regulations on the subject and consider her case for necessary compassionate appointment commensurating with the qualification. Though calendaring of time limit has been prayed for, as the consideration for compassionate appointment depends upon various contingencies such as availability of vacancies, pending applications etc. no time limit is calendared. The seniority of the applicant shall however, be maintained as of September, 2005 when the first applicant submitted the application for compassionate appointment to her daughter viz., applicant No.2.

7. No costs.

Dated, the 7th February, 2007.



K.B.S. RAJAN
JUDICIAL MEMBER

vs