

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 583 OF 2013

Monday, this the 27th day of January, 2014

CORAM:

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Roshan James
S/o Late James Antony Islan
Dee Mount, Kottappuram PO
Vizhinjam, Thiruvananthapuram ... Applicant

(By Advocate Mr.Jelson J Edampadam)

versus

1. The General Manager
Southern Railway
Park Town PO, Chennai – 600 003
2. The Divisional Railway Manager
Southern Railway
Chennai – 600 003
3. The Senior Divisional Personnel Officer
Southern Railway
Park Town, Chennai – 600 003 ... Respondents

(By Advocate Mr.Sunil Jacob Jose)

The application having been heard on 27.01.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Applicant's father Shri James Antony Islan died in harness on February 02, 2003 while he was working as Senior Booking Clerk under the Southern Railway. Applicant was born on December 05, 1991 and he was hardly twelve years old at the time of his father's death. He completed eighteen years on December 05, 2009. It appears that applicant's mother had submitted Annexure R-1 representation before Respondent No.3 on May 07, 2010 seeking permission of the Administration to allow her son (the

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applicant) to complete the B.E course which he was pursuing at that time. In response to the said request, the Administration informed the applicant that there was no provision under the rules to grant such permission. Accordingly, the applicant was directed to submit the application along with all necessary documents to consider his case for compassionate appointment on or before June 01, 2010. A true copy of the said letter is produced as Annexure R-II . Still later, by Annexure R-III communication dated June 25, 2010, the applicant's mother was again informed to submit the application along with requisite documents on or before July 15, 2010 as indicated in Annexure R-IV communication which followed shortly thereafter.

2. Admittedly, applicant had not submitted any application as directed by the Administration within the stipulated time. It appears that the Administration by its communication dated May 19, 2010 had again informed the applicant's mother to submit the application as could be seen from Annexure A-3 dated September 27, 2011. By the above communication, the Administration informed the applicant's mother that since the applicant had not submitted application for compassionate appointment along with requisite documents, his candidature has been treated as "**cancelled and closed** ". This was reiterated in Annexure A-4 communication dated June 07, 2012 also. Applicant seeks to quash Annexures A-3 and A-4 and prays for a declaration that he is entitled to be appointed under Compassionate Appointment Scheme and further prays for an appropriate direction in this regard.

A handwritten signature in black ink, appearing to be a stylized 'M' or a similar character, is written over a checkmark.

3. In the written statement the respondents have contended that the applicant was not entitled to be considered for the benefit under the Compassionate Appointment Scheme since he had not submitted the necessary application along with requisite documents within the stipulated time despite repeated instructions issued to him in this regard.

4. Learned counsel for the applicant submits that the applicant is now prepared to submit the application seeking compassionate appointment. He submits that the applicant was prevented from doing so because of the fact that he was pursuing B.E course at the relevant point of time. He points out that his mother had sought permission of the Administration seeking time till he completed the course as advised by some of her well wishers. It is true that applicant had attained majority on December 05, 2009. In 2010 his mother had submitted a representation seeking compassionate appointment for him. Therefore the claim for appointment was made within two years from the date of attaining majority.

5. It is seen that in response to the request made by the applicant's mother to grant permission to allow her son to complete the B.E course, the Administration had informed that there was no provision to grant such permission. On a perusal of Clause (ii) of Annexure R-V issued by the Railway Board shows otherwise. The said clause is extracted hereunder :-

(ii) If the candidate is minor at the time of death/medical invalidation of the ex-employee, but at the time of his/her attaining majority, he/she is already pursuing/admitted to a course, he/she be allowed to complete that course provided he/she takes due permission from the Administration. His/her candidature for appointment on compassionate grounds would be considered in light of the qualification he/she acquires."

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6. In my view, the above provision in Annexure R-V will come to the aid of the applicant. Therefore, the stand taken by the respondents that there was no provision for grant of permission to complete the course that was being pursued by the applicant at the time when he attained majority is *ex facie* untenable. In that view of the matter, Respondents cannot treat the candidature of the applicant and closed and they are bound to entertain the application, if any, that may be submitted by the applicant within one month from today seeking appointment under the Compassionate Appointment Scheme along with requisite documents. If his application is received, Respondents shall entertain the same and take an appropriate decision thereon in accordance with the provisions contained in the Scheme as expeditiously as possible, at any rate, within four months from the date of receipt of the application.

7. Original Application is **disposed** of in the above terms. No costs.

Dated, the 27th January, 2014


JUSTICE A.K.BASHEER
JUDICIAL MEMBER

vs