

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.141/07

Thursday this the 31st day of May 2007

C O R A M :

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

Smt.Chellammal,
W/o.late Porappan,
Ex-Driver 'C' Diesel, Erode.
Residing at Door No.3/887, Annanagar,
Kadanallur Post, Pallipalayam (Via), Erode – 8.Applicant

(By Advocate Mr.Shafik.M.A.)

Versus

1. Union of India represented by Chairman,
Railway Board, Rail Bhavan, New Delhi.
2. The General Manager,
Southern Railway, Chennai – 3.
3. The Divisional Railway Manager,
Southern Railway, Palghat.
4. The Senior Divisional Personnel Officer,
Southern Railway, Palghat.
5. The Senior Divisional Mechanical Engineer,
Southern Railway, Palghat.Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 31st May 2007 the Tribunal on the same day delivered the following :-

ORDER

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

Late Porappan, Ex-Driver 'C' Diesel, died on 4.12.2004.

The applicant, his widow is aggrieved by the denial of compassionate allowance to her husband while he was alive and later family pension to her. On an allegation of misconduct, Late Porappan was dismissed from service with effect from 1.2.1983 as per penalty advice dated 29.1.1983.

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On appeal Divisional Railway Manager modified the penalty of dismissal as removal from service vide Annexure A-1 appellate order dated 23.3.1983. It was indicated that "giving consideration to the fact that he had put in long period of service, in the Railways, which though not totally free from punishments, was not completely bad either", it was decided that the penalty may be reduced from dismissal to removal from service. Shri.Porappan was paid a sum of Rs.23596/- only as settlement dues which was the amount accrued in his Provident Fund Account. He was also paid a sum of Rs.202/- as benefit under Group Insurance Scheme. No other benefits including compassionate Allowance was paid to Shri.Porappan.

2. Rules exist in Railways for payment of compassionate Allowance not-exceeding two-third of pension or gratuity or both to Railway Servants who are dismissed or removed from service. Railway Servants, who are in receipt of compassionate Allowance also, are eligible for grant of family pension. Ever since Porappan was removed from service he was repeatedly representing the authorities to grant him compassionate Allowance. But there was no response. The only son of the applicant and Shri.Porappan, had died and therefore they were completely upset and bewildered. Shri.Porappan submitted Annexure A-2 representation dated 29.10.1998 addressed to the Divisional Railway Manager (Personnel) Palghat seeking for kind indulgence and sanction of Compassionate Allowance. In response, a letter dated 8.12.1998 was received from the 4th respondent, indicating that since Shri.Porappan was removed from service he is not eligible for pension and for sanctioning of compassionate Allowance he was advised

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to make an application to the authority which removed him from service. Accordingly Shri.Porappan submitted a representation dated 15.12.1998 to the 5th respondent vide Annexure A-4. This was followed by another representation dated 18.2.1999 vide Annexure A-5.

3. As per a letter No.J/P500/P/Vol II 4.11.1982, the Divisional Personnel Officer, Palghat has circulated a copy of Railway Board's letter No.E(E)III-82/PNM/7 dated 4.10.1982 vide Annexure A-6. In terms of the above Railway Board's letter the employees who were governed by SRPF (Contributory) Rules were given an opportunity to opt for the Railway Pension Rules including the benefit of Family Pension Scheme. After entering service Shri.Porappan had opted for SRPF (Contributory) Scheme, but he could not opt for the pension scheme, in terms of Annexure A-6, as he was kept under suspension for the period from 18.9.1982 to 31.1.1983. Shri.Porappan submitted a further representation dated 21/31.5.1999 addressed to the 2nd respondent – General Manager vide Annexure A-7 wherein he had submitted that he was eligible to exercise option as per Annexure A-6 to change over to pension scheme, but could not avail of the opportunity as he was under suspension at the time when Annexure A-6 was circulated and that the circular was not brought to his notice. Shri.Porappan received letter No.J/P226/General 11/26.8.1999 issued by the 4th respondent, rejecting his request for compassionate allowance again vide Annexure A-9. Shri.Porappan submitted submitted a series of representations to various authorities. In response to certain representations a letter dated 8.7.2003 issued by the 4th respondent was received as per which the request for compassionate allowance was again rejected.

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4. Dejected and disappointed Shri.Porappan died on 4.12.2004. By his death life of the applicant became more miserable. The applicant has no means of livelihood and therefore is practically begging for daily bread. The misconduct alleged on the husband does not involve any element of corruption, bribery or moral turpitude. The applicant therefore deserves for real compassion and rightly entitled to compassionate allowance. Denial of the same to him is really unjustified.

5. Arguments were heard and documents perused. There is no denial for the fact that the husband of the applicant had been consistently making representations for compassionate allowance. However, from the files it is not exactly clear as to at what level the case of the applicant's husband was rejected. The applicant as of date claims that since family pension is admissible only when compassionate allowance is granted, the case involves initially grant of compassionate allowance followed by family pension. In fact, even this could be possible only when the applicant's husband is permitted to switch over to Pension Scheme. He had applied for the same before the General Manager vide Annexure A-7. However, as per the applicant this was rejected at the level of the Senior Personnel Officer. Thus, the General Manager has not considered the case. Again, as regards compassionate allowance, if the decision taken by the respondents is at the appropriate level, there may not be much merit in the case of the applicant. According to Rule 65 of Railway Pension Rules, the authority competent to grant compassionate allowance in cases of dismissal or removal from service on disciplinary grounds is Senior Divisional Mechanical Engineer. Since in the instant case it is not clear that it is the aforesaid authority who had earlier considered the case of the

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applicant's husband it will be only appropriate that the Senior Divisional Mechanical Engineer considers the case on merit taking into account the fact that the applicant had lost both her husband recently as well as her son during the life time of her husband. In addition, the fact that modification of the original penalty order of dismissal from service to one of removal has been made by the appellate authority on the ground that the applicant's husband had put in long period of service in the Railways which has not completely bad and as such this aspect may also be kept in view by the General Manager while dealing with the case. The OA is disposed of with a direction to the General Manager to consider (in case already considered, reconsider) the matter of switching over to pensionable service and the Senior Divisional Mechanical Engineer to consider application for compassionate Allowance in the light of the above discussion and the decision communicated to the applicant. This drill may be performed within a period of fifteen weeks from the date of communication of this order. No costs.

(Dated the 31st day of May 2007)



K.B.S.RAJAN
JUDICIAL MEMBER

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