

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.144 of 2013

Monday this the 31st day of March 2014

C O R A M :

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

P.M.Chacko (alias P.M.Sabu),
S/o.late P.C.Mariyam,
Panicheriyil House, Irumpayam P.O.,
Thalayolaparambu Via, Kottayam District – 686 605.Applicant

(By Advocate Mr.Alias M Cherian)

V e r s u s

1. General Manager,
Southern Railway, C.P.O. Chennai.
2. Divisional Railway Manager,
Southern Railway, Divisional Office,
Thiruvananthapuram.Respondents

(By Advocate Mr.K.M.Anthru)

This application having been heard on 31st March 2014 this Tribunal on the same day delivered the following :-

O R D E R

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

Applicant's mother died in harness on September 3, 2009 while she was working as a Senior Trackwoman. On the death of his mother the applicant had submitted an application before the competent authority seeking compassionate appointment in January, 2010. Even though several representations were submitted by the applicant thereafter before various authorities, no action was taken in the matter.

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2. It is in the above circumstances that the applicant has filed this Original Application in which one of the prayers is to issue a direction to the respondents to relax the requirement of minimum educational qualification in his case and grant him employment under the Scheme.

3. The case of the respondents is that the applicant cannot be considered for grant of benefit under the Compassionate Appointment Scheme since his educational qualification is only 7th Standard as against the minimum requirement of 8th Standard. This decision was conveyed by the Administration through Annexure R-1 order dated August 31, 2011. No reasons have been stated as to why relaxation cannot be granted. Respondents have also produced Annexure R-3 order dated December 9, 2011 issued by the Railway Board, which is extracted hereunder for the sake of convenience :-

" The issue of minimum educational qualification of candidates belonging to the categories of compassionate appointment, land loser, accident victims, LARSGESS and substitutes in line with recommendations of the sixth Pay Commission as accepted by the Government of India has been under consideration for some time.

2. Accordingly, it has now been decided by the Ministry of Railways (Railway Board) that in exceptional circumstances, wherever grant of appointment is considered to any of those persons in categories mentioned above, not in possession of prescribed educational qualifications for the post, such persons will be recruited/engaged as trainees who will be given the regular pay bands and grade pay only on acquiring the minimum educational qualification prescribed under the recruitment rules. The emoluments of these trainees, during the period of their training and before they are absorbed in the Government as employees, will be governed by the minimum of the -1S pay band without any grade pay. The period spent in the -1S pay band by the future recruits will not be counted as service for any purpose as their regular service will start only after they are placed in the pay band PB-1 of Rs.5200-20200 along with grade pay of Rs.1800.

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3. This should be included in the appointment letter being given to the candidate, in case such appointments are made."
(emphasis supplied)

4. Learned counsel for the respondents submits that the applicant may not be entitled to get the benefit of Annexure R-3 order since Administration had passed Annexure R-1 order rejecting his claim for compassionate appointment prior to issuance of Annexure R-3. But it is pertinent to note that the application filed by the applicant seeking compassionate appointment was kept pending by the Administration for more than 1 ½ years and it was rejected only in August 2011. It may be true that Annexure R-3 order was issued only in December, 2011 but the recommendation made by the 6th Pay Commission in this regard was pending before the Railway Board for more than one year.

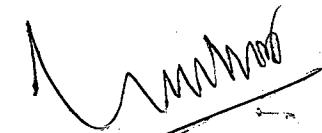
5. Anyhow, the short question is whether in the peculiar facts and circumstances of the case the applicant is entitled to get the benefit of relaxation in educational qualification. Admittedly, the applicant has passed only 7th Standard and the minimum requirement is pass in 8th Standard. Annexure R-3 order will show that in exceptional circumstances relaxation can be granted. Having regard to the fact that applicant's mother died in unfortunate circumstances while serving the Railway administration, I am of the view that the applicant deserves some sympathy. Applicant has filed an affidavit stating that he is prepared to join as a Trainee as indicated in Annexure R-3. He further undertakes that he will acquire a minimum educational qualification within the prescribed period in terms of the Recruitment Rules.

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6. In view of the said affidavit filed by the applicant, I am satisfied that in the peculiar facts and circumstances of the case, the respondents have to be directed to give the benefit of Annexure R-3 order to the applicant as well. Ordered accordingly. Respondents shall pass appropriate orders in this regard appointing the applicant as a Trainee in a suitable post in tune with the terms and conditions indicated in Annexure R-3, if he is eligible in all other respects. This shall be done as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this order.

(Dated this the 31st day of March 2014)



JUSTICE A.K.BASHEER
JUDICIAL MEMBER

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