

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 188/2007

MONDAY THIS THE 12th DAY OF NOVEMBER, 2007

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

K.M. Azeez s/o Moidutty
residing at Karuvetty Parambil House
Mulloorkara Post
Vazhakkodu, Trichur District.

Applicant

By Advocate M/s TC Govindaswamy, D. Heera,
PN Panklajakshan Pillai, K.C. Sarala and R.R. Rejitha

Vs.

- 1 Union of India represented by the General Manager
Southern Railway, Headquarters Office
Park Town PO
Chennai-3
- 2 The Senior Divisional Personnel Officer
Southern Railway, Trivandrum Division
Thiruvananthapuram-695 014
- 3 The Railway Board represented by its Secretary
Rail Bhavan, New Delhi. Respondents

By Advocate Thomas Mathew Nellimoottil

O R D E R

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

This application is filed against the non consideration for
compassionate appointment.

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2 The applicant's mother died on 13.2.2001 while working as a Gangwoman in the Trivandrum Division of the Southern Railway. She was survived by three sons and three daughters. According to the applicant, a request for compassionate appointment was first made by the last of the children Smt. Aysha which was denied on the ground that she was married prior to the demise of the mother. Thereupon, the applicant who studied upto VIth standard submitted his request for appointment on compassionate ground during the month of August, 2002 (Annexure A-1). There was no response to Annexure A-1 and it was finally rejected by Annexure A-2 order dated 16.2.2004 stating that it is not a fit case to be referred to the Railway Board for relaxation of the minimum educational qualification. The applicant has contended that there is no prescription of minimum qualification for appointment on compassionate ground. It is further submitted that the Railways have in the past granted appointment on compassionate ground in many cases in the absence of educational qualification against various Group-D posts in Railways and the applicant alone is being discriminated. Though the General Manager is vested with the power of grant of appointment on compassionate grounds he has failed to exercise his jurisdiction.

3 The following are the reliefs sought:

(i) Call for the records leading to the issue of Annexure A-2 and quash the same

- (ii) Declare that the applicant is entitled to be considered for appointment on compassionate grounds
- (iii) Direct the respondents to consider the applicant for appointment on compassionate grounds to anyone of the Group-D posts under the respondents and to grant the applicant all the consequential benefits thereof.
- (iv) Award costs of and incidental to this Application.
- (v) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

4 In the reply statement, the respondents have submitted that the provisions made for appointment on compassionate grounds cannot be claimed as a matter of right. The family of late Smt. P.M. Sara, mother of the applicant consisted of six children- three sons and three daughters and all are married. Two children are already employed in the Railways. There is no proof in the records to the effect that the youngest daughter had earlier requested for appointment. The first request was received from the applicant on 10.7.2002 after about one and half years of the demise of the employee. After verification by deputing a Personnel Inspector, the case was referred to Headquarters. However, the competent authority felt that it is not a fit case to be referred to the Railway Board for relaxation of the minimum educational qualification. The minimum educational qualification prescribed for appointment in Group-D service is a pass in VIII Standard. This is applicable for compassionate appointments also. This is also reiterated in Annexure R-1 series and orders dated 4.12.1998 and 4.3.1999.

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5 In terms of these orders the educational qualifications is relaxable only for appointment of widows on compassionate grounds against Group-D post. The applicant that no educational qualifications are necessary for compassionate appointment is therefore not found to be factually correct.

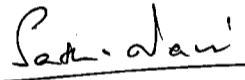
6 The family composition of the late employee as reported by the respondents shows that all the children were married and two of the married daughters were also employed in the Railways. The applicant has contended that since he was the only one without job he was entitled to get the appointment on compassionate ground. It has been reiterated time and again by the Apex Court that the scheme of compassionate appointment is not an employment scheme. it is only intended to serve as an immediate safety measure for the family to survive the sudden grave financial situation resulting from the death of the head of the family. In a recent judgment in Punjab National Bank and Others Vs. Ashwini KumarTaneja (2004(7) SCC 268) the Hon'ble Supreme Court has reiterated:

"Appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement of making appointments on open invitation of application on merits. Basic intention is that on the death of the employee concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis."

7 After an assessment of the financial status of the family.
***** The competent authority has formed an opinion that the case of the applicant is not a fit case to be referred for relaxation of qualification as it is clear from Annexure R-1 and R-2 orders that only if on merit of the individual case, the General Manager feels that relaxation in the minimum educational qualification is absolutely necessary, it should be recommended. On the basis of the records, we do not find any reason to interfere with the opinion formed by the competent authority. There is no merit in the prayer of the applicant. The O.A. is dismissed. No costs.

Dated 12.11.2007


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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