

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1033/96.

Date of Decision: MARCH 05, 1998.

Smt. Sallemal Thangraj Muthan & Anr. Applicant.

Shri D. V. Gangal, Advocate for Applicant.

Versus

Union Of India & Others, Respondent(s)

Shri V. S. Masurkar, Advocate for Respondent(s)

CORAM:

Hon'ble Shri. Justice R. G. Vaidyanatha, Vice-Chairman.

~~Hon'ble Justice S. K. Kulkarni~~

- (1) To be referred to the Reporter or not? *no*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

os*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 1033/96.

Dated this Thursday, the 5th day of March, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

Smt. Sallemal Thangraj Muthan,
Residing at -
Jasai Railway Colony,
Taluka Uran,
Dist. Raigad.

Shri Amritlingam Thangraj Muthan,
Residing at -
Jaisai Railway Colony,
Taluka - Uran,
Dist. Raigad.

... Applicants

(By Advocate Shri D.V. Gangal)

VERSUS

Union Of India through -

1. The General Manager (C),
Central Railway,
Mumbai C.S.T.
2. The Chief Engineer,
Head Quarter Construction,
Mumbai C.S.T.
3. Dy. Chief Engineer/C/DDR,
Central Railway, Dadar,
Mumbai.

... Respondents.

(By Advocate Shri V.S. Masurkar)

: OPEN COURT ORDER :

I PER.: SHRI R.G. VAIDYANATHA, VICE-CHAIRMAN I

This is an application filed by the applicant in which a direction is sought to the respondents to consider the case of the second applicant for grant of compassionate appointment. The respondents have filed reply opposing the application. The Learned Counsel for


...2

the applicant submits that he wants to file a rejoinder. The applicants' counsel is permitted to file rejoinder and if filed, to be taken on record. Heard both sides.

2. The application is filed on the ground that the first applicant's husband died while he was in service and, therefore, his son i.e. the second applicant, is entitled to be considered for compassionate appointment.

The respondents' stand is that the application is barred by the principles of res-judicata.

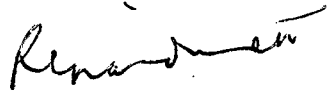
3. It is on record that the applicant had filed a previous O.A. in this Tribunal in O.A. No. 95/95 for identical relief of seeking compassionate appointment for the applicants. That was opposed by the respondents. After hearing both the sides, this Tribunal by a lengthy speaking order dated 13.10.1995 dismissed the O.A. Then, the applicants filed an application for reviewing that order in R.P. No. 43/96. The Learned Member, who had earlier dismissed the O.A., disposed of the review petition by an order dated 10.04.1996 rejecting the same. Now, the applicants have filed the present O.A. for identical reliefs which they had prayed for in the previous O.A. No. 95/95. On the face of it, the present application is barred by the principles of res-judicata. The Learned Counsel for the applicant submits that the observations in the previous order that the applicants


...3

suppressed the information, is not correct, since an affidavit had been filed in that case where the fact that the first applicant is in railway service has been disclosed and therefore, the previous order dismissing the O.A. on the ground of suppression of facts is not correct and hence, the applicants are entitled to agitate the same question again. We cannot sit in judgement over the correctness of the order passed in the previous O.A. Whether that order is right or wrong, it is binding on the parties. If the applicants were aggrieved with that order, they should have taken that matter either in the High Court or Supreme Court, but a fresh O.A. cannot be filed on the same ground and for the same relief which they had taken in the previous O.A. Therefore, on the principles of resjudicata, the present O.A. is not maintainable and is liable to be rejected.

4. It was argued on behalf of the applicants that the applicant no. 2 is entitled to compassionate appointment on merit. As already stated, I cannot go into that question again. However, it is always open to the respondents to consider the case of the second applicant sympathetically if they feel that he is entitled to compassionate appointment. But only thing is that, this Tribunal cannot interfere by giving any direction in the matter.

5. In the result, the application is rejected at the admission stage itself. No costs.


(R.G. VAIDYANATHA)
VICE-CHAIRMAN.