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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 100/90

Date of Order: 3.8.1992.

BETWEEN:

Smt.T.Narasayamma

.. Applicant.

A N D

1. The Secretary (Establishment)
Railway Board, Ministry of Railway
Rail Bhavan, New Delhi - 110 001.
 2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad - 500 371.
 3. The Divisional Railway Manager,
South Central Railway,
Vijayawada Division,
Vijayawada - 520 001.
 4. The Sr. Divisional Personnel Officer,
South Central Railway, Vijayawada Division,
Vijayawada - 520 001.
- .. Respondents.

Counsel for the Applicant

.. Mr. G.V.Subba Rao

Counsel for the Respondents

.. Mr. N.R.Devraj

CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

(Order of the Single Member Bench delivered by
Hon'ble Shri T.Chandra Sekhara Reddy, Member (Judl.)).

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This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to appoint the applicant's daughter Kum.T.Vijaya Lakshmi who is a Graduate with Technical Qualification of a pass in English Typewriting in a suitable Class-III Post, on compassionate grounds and pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief are as follows:

2. One Sri T.Surya Rao is the husband of the applicant. The said Sri Surya Rao was appointed in Class IV post of Porter on 8.10.1941. He was working as Shunting Jamedar on promotion at the time he retired in the year 1977 on medical invalidation. Actually the said Sri Surya Rao was discharged from service on medical invalidation on 27.7.1977. From the date of retirement on medical invalidation grounds up to 23.2.1985 the said Sri Surya Rao was receiving pension and also had received all his settlement dues. After the death of ^{the said} Sri Surya Rao in the month of February, 1985, applicant put in a representation to provide employment to her daughter Kum.T.Vijaya Lakshmi for appointment on compassionate grounds to Class-III post. The said representation was submitted on 3.8.1985 for the said compassionate appointment to the Divisional Railway Manager. On 3.9.1985 a letter was sent by the respondents to the applicant rejecting the request of the applicant to provide an appointment to Kum.T.Vijaya Lakshmi daughter of the applicant on compassionate grounds. So, the present OA is filed by the applicant on 21.1.1990 for the relief as already indicated above.

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Counter is filed by the respondents opposing this OA.

3. This OA had come up for final hearing on 2 or 3 occasions. When this matter came up for hearing on 29.7.1992 we have made it clear as per our order dated 29.7.1992 that no further adjournment will be given and both the counsel were informed that the matter would be heard and decided even in the absence of counsel of either side on the said day i.e. 3.8.1992.

4. When this OA was taken up for hearing today Mr.G.V.Subba Rao made his appearance and represented that inspite of 2 or 3 letters by him to the applicant that the applicant had not turned up and as he does not have instruction from the applicant that he (Mr.G.V.Subba Rao) was withdrawing from the OA. In view of the representation made by Mr.G.V.Subba Rao he is permitted to withdraw from the OA.

5. Mr.N.R.Devraj, Standing Counsel for the respondents is present and is heard. We had perused the material before us. We proceed to decide this OA, after hearing the said arguments of Mr.N.R.Devraj and after perusing the material that is before us.

6. As already pointed out while narrating the facts giving rise to this OA, the applicant's husband Sri Surya Rao had retired on medical invalidation grounds on 27.7.1977. Page one of the material papers is the true copy of the service certificate of Sri Surya Rao. In the said service certificate the date of birth of the said Surya Rao is shown as 15.6.1920. So Sri Surya Rao husband of the applicant after attaining the age of 58 years, in the usual course ~~he~~ would have retired on 1.7.1978. Admittedly on medical invalidation grounds Sri Surya Rao had retired on 27.7.1977 that is ~~only~~ prior to 11 months before his

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date of superannuation. So in view of the fact that Sri Surya Rao had retired on medical grounds only before 11 months prior to his superannuation age, we do not feel that this is a fit case to consider his daughter Kum. Vijaya Lakshmi for appointment on compassionate grounds.

7. Right from the date of his retirement on medical invalidation grounds on 27.7.1977 till 23.2.1985 which is the date of the death of Sri Surya Rao, the said Sri Surya Rao never appears to have made any representation to the competent authority to provide an appointment on compassionate grounds to any of his children. As could be seen the said Sri Surya Rao had been silent till his death from the date of retirement in the matter of the said compassionate appointment. If really the family required any assistance by way of appointment, we do not think the said Surya Rao would have kept quite without approaching competent authority to provide an appointment on compassionate grounds to one of his children. As could be seen it is only after the death of Sri Surya Rao in the month of February 1985, for the first time a representation had been made on 3.8.1985 by the applicant herein who is the widow of the said Sri Surya Rao to provide an employment to the said Kum Vijaya Lakshmi. So as already point out the said Sri Surya Rao had not made any attempt to secure any appointment on compassionate grounds to his children. In view of these facts we are of the opinion that the family is not in such circumstances as requiring an appointment on compassionate grounds. If the family was in distress or in indigent circumstances requiring an appointment on compassionate grounds, we do not think as already pointed out that Sri Surya Rao would have kept quite for all the period of 8 years after his retirement on medical invalidation grounds.

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8. As already point out the representation of the applicant was rejected by the competent authority refusing to provide an appointment on compassionate grounds as early as on 3.9.1985. This OA is filed on 29.1.1990. There is roughly 5 years delay by the applicant for approaching this Tribunal for the said relief. We see any amount of latches on the part of the applicant in approaching this Tribunal for providing appointment to her daughter Kum.Vijaya-Lakshmi. So in view of the said latches the applicant is not entitled to the relief as prayed for by her in this OA.

9. In para 2 of the counter of the respondents it is pleaded as per the family details in the prescribed proforma submitted by Sri Surya Rao, that Sri Surya Rao has two daughters by name T.Satyavathi aged about 20 years and T.Vijaya aged 9 years whereas the applicant in her representation for compassionate appointment made to the Railway Administration has stated that she has only one daughter by name T.Vijaya Lakshmi. So from the declaration of the applicant's husband Sri Surya Rao there cannot be doubt that that applicant has two daughters through the said Sri Surya Rao. But the applicant had suppressed the fact having another daughter and has come forth with the case as having only one daughter and with the prayer to provide compassionate appointment to the said daughter. It is quite evident that the applicant is suppressing material facts with regarding to her family particulars. It is only on equitable grounds that an appointment on compassionate grounds is provided to a member of the deceased family. Any person seeking an equitable relief should approach this Tribunal with clean hands. Any party or applicant approaching this Tribunal should not be guilty of suppression of facts. In view of the suppression of facts with regard to the family particulars

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of the applicant, the applicant is also not entitled to the said relief as prayed for by her.

10. We see no merits in this OA and hence OA is liable to be dismissed and is accordingly dismissed. There shall be no order as to costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

8/11/92
Dated: 3rd August, 1992 Dy. Registrar (Judl.)

(Dictated in the Open Court)

Copy to:-

1. The Secretary (Establishment) Railway Board, Ministry of Railway Rail Bhavan, New Delhi-110 001.
2. The Chief Personnel Officer, S.C. Railway, Railnilayam, Sec' Secunderabad.
3. The Divisional Railway Manager, South Central Railway, Vijayawada Division, Vijayawada-520 001.
4. The Sr. Divisional Personnel Officer, South Central Railway, Vijayawada Division, Vijayawada-001.
5. One copy to Sri. G.V. Subba Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.R. Devaraj, SC for Railways, CAT, Hyd.
7. One spare copy.

Rsm/-

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O.A. 106/90
TYPED BY

COMPARED BY

CWS
CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN; M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 3/8/1992.

ORDER / JUDGMENT

R.A./C.A./M.A.No.

in

O.A.No.

106/90

T.A.No.

(W.P.No.)

Admitted and interim directions
issued

Disposed of with directions

~~Dismissed~~

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

~~No order as to costs.~~

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