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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

O. A. No.292/90

Date of Order: 5.4.1990

Between:

Smt. E. Parvathamma,
W/o lat Kristappa,
Kamalapur, Hospet,
Ballary Dist.,Karnataka

.. Applicant

Versus

1. The Divisional Railway Manager,
South Central Railway, Guntakal,
Anantapur Dist.,

2. The Commandant, Railway Protection
Force, S. C. Railway, Guntakal,
Anantapur Dist.,

.. Respondents

APPEARANCE:

FOR THE APPLICANT : Mr. G. Ramachandra Reddy, Advocate

FOR THE RESPONDENTS : Mr. N. R. Deva Raj, Standing
Counsel for the Railways

....

CORAM:

HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

HON'BLE SHRI D. SURYA RAO, MEMBER(JUDICIAL)

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(Judgement of the Bench delivered by Hon'ble Shri D. Surya Rao,
Member (J))

1. The applicant herein is the wife of deceased employee
of the Railway Protection Force of South Central Railway. It
is the case of the applicant that her husband ~~was~~ ^{was} working
as a Rakshak at Dronachalam, ^{and} that he was implicated in a
case of theft and a chargesheet was issued against him on
26.11.82. Criminal proceedings were initiated against him
as well as departmental proceedings. As a result of depart-
mental proceedings the applicant's husband was found guilty
and orders of removal from service were issued. Aggrieved by
this order the applicant's husband preferred an appeal to the
Dy. Chief Security Officer, SCR, Secunderabad on 10.5.84.

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While this appeal was pending he died on 2.2.86. The applicant states that the result of the appeal was not intimated to the applicant nor were notices of hearing received by the applicant's husband during his life time. Subsequently, the applicant made a request to the authorities to consider her case for appointment in the Railways on humanitarian grounds. A reply was given in 1986 informing her that she cannot be considered for appointment as her husband was a removed employee. Aggrieved by this order, the applicant filed W.P.No.13267/89 in the A. P. High Court and the same was disposed off on the ground that the High Court has no jurisdiction to entertain the application after the passing of the Administrative Tribunals Act, 1985. Hence, the present application has been filed wherein the applicant seeks the following reliefs:

- a) Directing the respondents to give appointment to the applicant in a suitable post in view of the death of applicant's husband while he was in service in the respondent's office;
- b) and to pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. Her application has been sponsored by the State Legal Aid Committee and Shri G. Ramachandra Reddy, Advocate has been appointed to conduct the case on her behalf. The learned counsel for the applicant contends that the applicant has a legal right to appointment to the Railways in any civil post. The respondents have informed her by order dt.5.8.86 that her request for appointment on compassionate grounds has not been considered by DIG/RPF/SC on the ground that Rules do not permit for direct appointment to the wards of removable staff, vide Letter No.G/XP.227/44/21/82 dated 5.8.86.

3. The material papers filed disclose that the appeal preferred by the applicant's husband against the order of the removal was rejected on 19.9.86. As long as the order

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To:

1. The Divisional Railway Manager, South central Railway, Guntakal, Anantapur Dist.
2. The Commandant, Railway Protection Force, S.C.Railway, Guntakal, Anantapur dist.
3. One copy to Mr.G.Ramachandra Reddy, Advocate, 9-Law Chambers, High Court Buildings, Hyderabad.
4. One copy to Mr.N.R.Devaraj, SC for Railways, CAT, Hyderabad.
5. One spare copy.

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of removal from service is allowed to stand and has not been set aside by department/competent authority/ court of competent jurisdiction, the applicant is not eligible for consideration of appointment on compassionate grounds. As the applicant is the wife of a removed Govt. servant, she does not come within the rules governing grant of employment on compassionate grounds. Therefore, the application is liable to be rejected.

4. The learned counsel for the applicant submitted that he may be permitted to amend the prayer to enable him to question the order of removal itself. Sri N. R. Deva Raj, learned counsel for the respondents, states that the husband of the applicant was a Rakshak in the Railway Protection Force and therefore was a member of the armed forces of the Union. Section 2(1) of the Administrative Tribunals Act, 1955 specifically states that this Tribunal will not have jurisdiction in respect of a member of any armed force of the Union. This Tribunal would, therefore, have no jurisdiction to entertain an application questioning the order of the removal passed against the deceased husband of the applicant. We, therefore, ~~for~~ have no reason to permit the applicant to amend the application to question the order of removal. The applicant is at liberty to question the order of removal, if so desired, in a competent Court.

5. For the reasons given above, we find no merit in the present application filed by the applicant for grant of appointment to any Civil post in the Railways on compassionate grounds. The application is dismissed but without costs.

B.N.Jayashimha
(B.N.JAYASHIMHA)

HON'BLE VICE CHAIRMAN

D.Surya Rao
(D.SURYA RAO)
HONOURABLE MEMBER (JUDICIAL)

(Dictated in Open Court)
Date: 5-4-1990

Adil
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By Deputy Registrar

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30/4/90

CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYD.

HON'BLE MR. B. N. JAYASIMHA: V.C.

HON'BLE MR. D. SURYA RAO: MEMBER: (JUDL)

AND

HON'BLE MR. J. NARASIMHA MURTHY (M) (J)

AND

HON'BLE MR. R. BALASUBRAMANIAN: (M) (A)

DATED: 8.4.90

ORDER/JUDGMENT:

M.A./R.A./L.A./No. in

T.A. No. W.P. No.

O.A. No. 292/90

Admitted and Interim directions issued.

Allowed.

Dismissed for default.

Dismissed, without costs.

Disposed of with direction.

M.A. ordered.

No order as to costs.

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