

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD
* * *

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O.A. 599/92.

Dt. of Decision : 2.6.1994.

B. Sanyasamma

.. Applicant

Vs

1. Union of India rep. by
the Secretary, Railway Board,
Rail Bhavan, New Delhi-110 001.

2. General Manager,
SC Rly, Rail Nilayam,
Secunderabad- 500 371.

3. Divisional Railway Manager,
SC Rly, Vijayawada-520 001.

.. Respondents.

Counsel for the Applicant : Mr. G.V. Subba Rao

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM :

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

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OA 599/92.

Dt. of Order: 2-6-94.

(ORDER PASSED BY HON'BLE SHRI A.B.GORTHI,
MEMBER (A)).

* * *

This is an application from the widow of late Sri B.Appala Naidu requesting for appointment on compassionate grounds to her son Sri B.Venkateshwarlu.

2. Sri Appala Naidu joined Railway service on 1-9-42 and was discharged from service on 8-12-75 as he became physically disabled. Subsequently he died on 8-11-77 leaving behind his widow (applicant) 4 sons and 4 daughters. The eldest 3 sons were already married and are in employment but living sperately. The 4th son Sri B.Venkateshwarlu was born on 5-11-56 and attained majority on 5-11-74. Eversince, the widow has been making representations requesting for appointment to her son on compassionate grounds. Her request was turned down by the Respondents on 26-3-92.

3. From the impugned order rejecting the applicant's request for compassionate appointment, it is apparent that the request was turned down essentially on the ground that the employee was discharged from service as Medically unfit on 8-12-75 and expired about 2 years later. The Respondents further observed that appointment on compassionate

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20/10/94

grounds is normally given to a family member where there is no other breadwinner. In the instant case admittedly the elder 3 sons of the applicant are in employment though living separately.

4. The legal validity of giving appointment on compassionate grounds to the next of kin of an employee came up for consideration before the Hon'ble Supreme Court in ^{the case of} Auditor General of India Vs. G. Ananta Rajeswara Rao (1994 SCC (L&S) 500). The pertinent observations made in the said judgment are reproduced below :-

"Therefore, the High Court is right in holding that the appointment on grounds of descent clearly violates Article 16(2) of the Constitution. But, however it is made clear that if the appointments are confined to the son/daughter or widow of the deceased government employee who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread-winner to relieve the economic distress of the members of the family, it is unexceptionable. But in other cases it cannot be a rule to take advantage of the Memorandum to appoint the persons to these posts on the ground of compassion. Accordingly, we allow the appeal in part and hold that the appointment in para 1 of the Memorandum is upheld and that appointment on compassionate ground to a son,

To

- 1- The Secretary, Union of India, Railway Board,
Railonavan, New Delhi-1
2. The General Manager, S.C.Rly,
Railnilayam, Secunderabad-371.
3. The Divisional Railway Manager,
S.C.Rly, vijayawada-1.
4. One copy to Mr.G.v.Sudha Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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daughter or widow to assist the family to relieve economic distress by sudden demise in harness of government employee is valid. It is not on the ground of descent simpliciter, but exceptional circumstances for the ground mentioned. It should be circumscribed with suitable modification by an appropriate amendment to the Memorandum limiting to relieve the members of the deceased employee who died in harness from economic distress. In other respects Article 16(2) is clearly attracted."

5. From the above it is apparent that compassionate appointment given to a son or daughter of an employee, other than the one who dies in harness will be ultra-vires of Article 16(2) of the Constitution. In the instance case the employee though crippled ^{while in service} ~~vi-a-vis~~ expired only after his discharge from service. Further, ~~the family members besides the applicant~~ 3 other sons of ^{the applicant} who are gainfully employed. The fact that they are living separately does not by itself make this ^{case} ~~an~~ more deserving.

6. For the reasons aforesaid, the O.A. cannot be allowed and the same is therefore dismissed but there will be no order as to costs.

[Signature]
(A.B. GORTHY)
Member (A)

Dt. 2nd June, 1994.
Dictated in Open Court.

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[Signature]
Deputy Registrar (J) CC

[Handwritten marks]

TEMPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GURTHI : MEMBER(A)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 26 -1994.

ORDER/JUDGMENT:

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

in

O.A.No.

T.A.No.

599/92

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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Central Administrative Tribunal

DESPATCH

17 JUN 1994

HYDERABAD BENCH