

(Cyl)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD.

\* \* \*

O.A. 808/93

Dt. of Decision : 29.3.94

T. Murali Krishna

.. Applicant

Vs

1. The General Manager,  
South Central Railway,  
Secunderabad.
2. The Divisional Railway  
Manager, SC., Railway,  
Vijayawada.
3. Senior Divisional Electrical  
Engineer, SC Railway,  
Vijayawada.

.. Respondents.

Counsel for the Applicant : Mr. J.M. Naidu

Counsel for the Respondents : Mr. C.V. Malla Reddy,  
SC for Rlys.

CORAM:

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

ORDER

{ As per Hon'ble Shri A.B. Gorthi, Member (Admn.) }

The applicant was initially engaged as a Electrical Khalasi under the Senior Divisional Electrical Engineer, South Central Railway, Vijayawada (Respondent No.3). Having worked continuously for some time he was granted temporary status w.e.f. 12.8.1978. He was selected for Artisan category in Traction Distribution Department and was appointed as a Apprentice Electrical Traction Fitter and was being paid a stipend of Rs. 260/- per month vide office order dt. 16.7.1980. While undergoing training as an Apprentice, he sustained a severe injury on 23.11.1981 for which he had to be hospitalised till 8.9.85. Thereafter, he was found medically unfit for all classes of further service in the railways and hence his service was terminated with effect from 9.9.1985.

2. The applicant vide representation dt. 17.10.85 requested the authorities concerned for giving appointment to his younger brother on compassionate grounds. No favourable reply to that representation was received by the applicant. In any case the brother (T.Satyanarayana) of the applicant died on 27.2.1992. Thereafter, the applicant has again approached the authorities concerned for giving appointment on compassionate grounds to his another brother named T. Mohana Krishna but without any success. Hence this application.

(7C)

3. The respondents in their reply affidavit have clarified that the request of the applicant for giving appointment to his brother (T.Satyanarayana) was considered and was rejected because firstly the applicant was a bachelor and secondly the applicant was not a regular employee but was a Casual Worker / Apprentice when he sustained injury. It was also urged that at the time of initial representation by the applicant there was no mention by him of having another brother named T.Mohana Krishna.

4. Heard learned counsel for both the parties. From the record it is seen that although the applicant joined the Railways as a Casual Labour, he was given temporary status w.e.f., 7.2.1978, as can be seen from Annexure I to the OA. There can be no dispute that attaining of temporary status signified granting the employee certain <sup>similar to those</sup> benefits which are given to a regular employee. In the instant case the applicant was not only given temporary status but was also selected for regular appointment as Electrical Traction Fitter and was put under training as an apprentice. There can be no doubt that an apprentice is not a railway employee, as such, but in the instant case the applicant is the one who having served the railways for a <sup>considerable</sup> ~~second~~ period of time and having been granted temporary status <sup>before he</sup> and was selected for regular appointment ~~and~~ was <sup>to</sup> be as an apprentice. In addition to these facts, there is also the undisputed fact that the applicant sustained injury!

while on duty. During the hearing of the case learned counsel for the applicant, ~~he~~ produced a copy of a photograph of the applicant which would go to show that the applicant is badly crippled. As regards the respondents' contention that the benefit of compassionate appointment is not ordinary admissible in the case where the employee is a bachelor, the same Railway Board's letter dt. 26.2.85 further clarifies that if any relaxation in deserving cases is required to be given the matter should be referred to <sup>the General Manager for his R</sup> the personal approval ~~of the General Manager~~.

5. Learned counsel for the applicant states that Mr. T. Mohana Krishna is the younger brother of the applicant and there was no reference to him in the previous correspondence because at that time Mr. T. Mohana Krishna was minor / student.

6. My attention has been drawn to Railway Board's letters No. E(NG)II/84/CL/28 dt. 4.5.84, 31.12.86, 13.3.87 and 6.12.89 a summary of which is contained in the Master Circular No. 16/90 of the Railway Board. These instructions indicate <sup>in no uncertain terms</sup> ~~on certain times~~ that the General Managers have powers to consider and decide requests for appointment on compassionate grounds of the wards/widow of a Casual Labour who dies due to accident while on duty provided the casual labourer concerned is eligible for compensation under the Workmen's Compensation Act 1923. In this regard, learned counsel for the applicant has stated that the applicant was

Copy to:-

1. The General Manager, South Central Railway, Secunderabad
2. The Divisional Railway Manager, S.C.Railways, Vijayawada
3. Senior Divisional Electrical Engineer, S.C.Railway, Vijayawada.
4. One copy to Sri. J.M.Naidu, advocate, Advocates Associations, High Court Buildings, Hyd.
5. One copy to Sri. C.V.Malla Reddy, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

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6 304

12/1/74

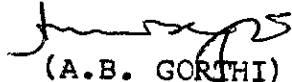
paid compensation under Workmen's compensation Act, 1923 and this fact has not been refuted by the respondents. As the applicant has been crippled to such an extent that he is unfit for any duty and as the injury that crippled him was sustained while on duty, we hold that the applicant is entitled to seek compassionate appointment to his brother so that the latter will be in a position to take care of him.

7. Keeping in view the totality of the circumstances of the case we deem <sup>it</sup> just and proper to dispose of this application with a direction to the respondents in the following terms:-

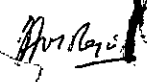
1) The case of the applicant for giving appointment to his younger brother Mr.T.Mohana Krishna on compassionate grounds will be placed before the General Manager, South Central Railway for his due consideration. In considering so, the General Manager may keep in view the observations made in this judgement.

2) The General Manager if required will have to verify whether Mr. Mohana Krishna is indeed the brother of the applicant.

3) The decision of the General Manager shall be conveyed to the applicant within 3 months from the date of communication of this order.

  
(A.B. GORTHI)  
MEMBER (ADMN.)

Dated : The 29th March 1994.  
(Dictated in Open Court)

  
By Registrar (Jndr)

O.A. 808793

TYPED 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. GORTHY : MEMBER (AD)

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 29/3/1994

ORDER/JUDGMENT

M.A./R.A./C.P./NO.

O.A.No.

In  
808793

T.A.No.

(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.

pvm

