

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD  
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O.A. 819/93.

Dt. of Decision : 29.6.94.

P. Yadaiah

.. Applicant.

Vs

1. The Railway Board represented  
by its Secretary (Estt.),  
Rail Bhavan, New Delhi.
  2. The Chief Personnel Officer,  
SC Rly, Rail Nilayam,  
Sec'bad.
  3. The Divisional Railway Manager,  
SC Rly, Hyderabad Division,  
Sec'bad.
- .. Respondents.

Counsel for the Applicant : Mr. V. Venkateswara Rao

Counsel for the Respondents : Mr. K. Ramulu, SC for Rlys.

CORAM:

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

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

25/8/2

JUDGEMENT

I AS PER HON'BLE SHRI A.B. GORTHI, MEMBER (ADMN.)

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The claim of the applicant<sup>is</sup> for a direction to the Respondents to give him appointment on compassionate grounds in any suitable post.

2. The brother of the applicant, late Shri Yellaiah died on 15-4-90 while serving with South Central Railway as Safaiwala. At the time of death of the employee, his family comprised his old parents and brother (the applicant). The wife of the employee divorced him prior to his death. The contention of the applicant is that on the death of the employee, the burden of looking after his old parents fell upon him and that he himself is a physically handicapped person. The request of the father of the employee for giving appointment to his second son was rejected by the Respondents.

3. Heard the learned counsel~~s~~ for both the parties.

4. The question of constitutional validity of appointment on compassionate grounds came up for consideration before the Honourable Supreme court in Auditor General of India & Others verses Anantha Rajeswara Rao, 1994 SCC (L&S) 500. The relevant portion of the judgement is 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

(JH)

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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, 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 circumstance 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."

4. Shri V. Venkateswara Rao, learned counsel for the applicant discussed the aforesaid judgement in detail and urged before us that the judgement cannot be understood to lay down any rigid rule that under no circumstances a near relative such as the brother of the deceased employee can be given appointment on compassionate grounds.

5. He stated that it is still open to the Tribunal to consider each case on merits <sup>and</sup> ~~in~~ so long as the Tribunal is satisfied that the individual desreved appointment on compassionate grounds, it can be given.

6. We are not inclined to accept this view ~~point~~ put forward by the applicant's counsel.

-/-.....4

3rd P.  
Poo

1. The Secretary, <sup>(Estt)</sup> Railway Board,  
Rail Bhavan, New Delhi.

3. The Divisional Railway Manager,  
South Central Railway,  
Hyderabad Division,  
Secunderabad.

5. One copy to Mr. K. Ramulu, SC for Railways, CAT, Hyderabad

7. One spare copy.

5th Regt  
Rm 5779m.

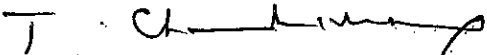
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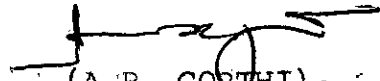
7. A careful perusal of the judgement of the Hon'ble Supreme Court would leave no room for doubt. It clearly lays down that appointment given to a near relative ~~and~~ other than the son, daughter or widow of the deceased employee would attract the ~~provision~~ <sup>prohibition</sup> contained in article 16 (2) of the Constitution.

8. For this purpose, a categorical direction was given by the Hon'ble Supreme Court that the scope of compassionate appointment ~~as~~ contained in the office Memorandum dated 25-11-78 should be circumscribed with suitable modification limiting the ~~scope~~ <sup>it</sup> to relieve the members of the family of the deceased employee who died in harness from economic distress. In all other respects it was held that appointment on compassionate grounds would attract the ~~provision~~ <sup>prohibition</sup> contained in article 16 (2) of the Constitution.

9. Ever since the aforesaid judgement has been brought to our notice, we have been consistently taking the view that there is now no scope for giving appointment on compassionate grounds to any-one other than the son, daughter or widow of a deceased employee.

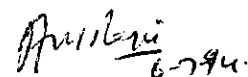
10. In the result, we find that the OA cannot be allowed and the same is therefore dismissed with no costs.

  
(T. CHANDRASEKHARA REDDY)  
Member (Judl.)

  
(A.B. GORTHI)  
Member (Admn.)

Dated 29 June, 1994

NS

  
Deputy Registrar (J.  
Custal.)

TYPED BY  
CHECKED BY

COMPLETED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

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

AND

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

AND

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

AND

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

Dated: 29/6/94. ✓

ORDER/JUDGMENT:

O.A.NO. 819/93 ✓

T.A.NO.

(W.P.NO. )

Admitted and Interim Directions  
Issued.

Disposed of with Directions

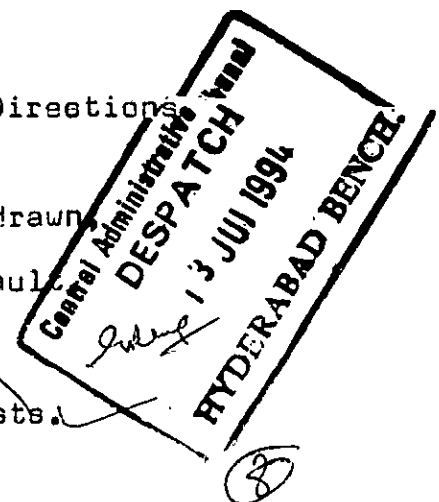
Dismissed. ✓

Dismissed as Withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs. ✓



29/7/94. ✓