

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 1526/93.

Dt. of Decision : 7.11.94.

Ch. Rajagopal

.. Applicant.

Vs

1. The Chief Personnel Officer
Secunderabad.
2. The General Manager,
SC Rly, Rail Nilayam,
Hyderabad.
3. The Secretary (E) Ministry of
Railways, Railway Board,
New Delhi.

.. Respondents.

Counsel for the Applicant : Mr. Krishna Devan

Counsel for the Respondents : Mr. D. Francis Paul, SC for Rlys.

CORAM:

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

O.A.1526/93

Date of Order: 7.11.94

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

This is an application for appointment on compassionate grounds. The father of the applicant died on 11.1.70 while serving as a Compound Gangman under the IOW, Bitragunta, South Central Railway. The family of the applicant consists his aged mother, 3 elder brothers and 3 elder sisters. The request of the applicant for appointment on compassionate ground has been rejected by the respondents on the ground that the case is 20 years old and hence time barred.

2. Learned counsel for the applicant has drawn my attention to Annexure A-5 of the OA which is a letter from Senior Divisional Personnel Officer, S.C. Railway dated 1.6.90 conveying the sanction of the General Manager for appointing Sk. Anwar Basha on compassionate grounds although the individual's father expired on 21.11.63. Accordingly the contention of the applicant's counsel is that the applicant is being discriminated in the matter of giving compassionate appointment.

3. From the reply affidavit filed by the respondents it is seen that the applicant has 3 elder brothers aged 42, 31 and 25 years respectively. All his 3 sisters also are elder to him. It appears that there are no minor children in the family as on today, and that the applicant is not the must required to lookafter ^{only} his mother. Further, their reply affidavit indicates that the eldest son is employed as a temporary mazdoor in S&T Department and is working as such from 1.7.90.

Copy to:-

1. The Chief Personnel Officer, S.C.Railway, Railnilayam, Secunderabad.
2. The General Manager, S.C.Railway, Railnilayam, Secunderabad.
3. The Secretary(E) Ministry of Railways, Railway Board, New Delhi.
4. One copy to Sri. Krishna Devan, advocate, CAT, Hyd.
5. One copy to Sri. D.Francis Paul, SC for Rlys, CAT, Hyderabad.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-


4. In the rejoinder the applicant has clarified that his eldest brother is married and living separately. Similarly the ^{also} elder brothers also are living separately and are not taking care of the mother.

5. There ^{is} ~~has~~ no dispute that the widow is presently receiving the pension of Rs.375/- p.m. + relief thereon.

6. Keeping in view the aforesaid circumstances I find that there is nothing ~~convenience~~ in the record to indicate that the family of the applicant is in such indigent circumstances as would warrant ~~a~~ direction to the respondents to give immediate employment assistance to the applicant. Moreover, it is seen that the Supreme Court in Auditor General of India and others vs. G. Anantha Rajeswara Rao 1994 SCC (L&S) 500, observed, inter alia as under:-

"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 support the loss of income from the breadwinner to relieve the economic distress of the members of the family 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."

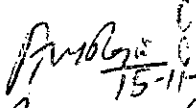
7. In view of the facts and circumstances of the case and also in view of what has been laid down by the Supreme Court in the above mentioned case, this OA has to be dismissed and accordingly ^{it is} dismissed without any order as to costs.


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

Dated: 7th November, 1994

(Dictated in Open Court)

sd


15-11-94
Dr. Reg. 31201 (3)

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Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. A. V. HANU SANKAR : MEMBER

AND

THE HON'BLE MR. A. D. GORTHY : MEMBER

Dated: 7/11/94

ORDER/JUDGMENT

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

D.A.NO.

1526/93

T.A.NO.

(W.D.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

~~Dismissed.~~

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

NO SPARE COPY

YLR

Central Administrative Tribunal
DESPATCH
24 NOV 1994
HYDERABAD BENCH
G. K. Singh