

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

* * *

O.A. 470/94.

Dt. of Decision : 2.6.1994.

Sri K. Rama Rao

.. Applicant

Vs

Union of India rep. by

1. General Manager,
Garden Reach,
Calcutta - 43.
2. Divisional Railway Manager,
(Personnel),
S.E. Railway,
Visakhapatnam.

.. Respondents.

Counsel for the Applicant : Mr. J. S. Subramanian
Counsel for Respondents : Mr. C.V. Malla Reddy
Addl. CGSC.

CORAM:

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

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(22)

OA 470/94.

Dt. of Order: 2-6-94.

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

* * *

In this application for a direction to the Respondents to give appointment to the son of the applicant on compassionate grounds.

2. The applicant while working as Highly Skilled ~~Gr. I Officer~~ sustained grave injuries in the course of his employment and was declared unfit for the job. Due to his physical disability the applicant could not accept the alternate appointment offered to him. He was thus left with no alternative but to retire voluntarily with effect from 8-8-91. The prayer of the applicant is that in view of the circumstances of the case and his financial difficulties his son should be given appointment on compassionate grounds.

3. Heard learned counsel for both the parties.

4. The question of the legal validity of giving appointment 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 and Others Vs. G. Anantha Rajeswara Rao (1994 SCC (L&S) 500). The relevant observations made

in the said judgment are reproduced below :-

"Therefore, the High Court is right in holding that the appointments on grounds of descent clearly violates Article 16(2) of the Constitution. But, however it is made clear that if the said appointments are confined to 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 or 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

is clearly attracted."

5. From the above it is apparent that giving appointment to the son of an employee on the ground that the employee retired from service on account of physical disability or medically ^{he}unfitness can no longer ^{be}said to be valid. In view of the facts of the case and the Judgment of the Hon'ble Supreme Court, this O.A. cannot be allowed. Accordingly the same is rejected at the admission stage itself. No order as to costs.

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

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

[Signature]
Deputy Registrar (J) CC

To avl/

1. The General Manager, Union of India,
S.E.Rly, Garden Reach, Calcutta-43.
2. The Divisional Railway Manager (Personnel),
S.E.Rly, Visakhapatnam.
3. One copy to Mr. J. Subrahmanyam, Advocate, CAT. Hyd.
4. One copy to Mr. C.V. Malla Reddy, SC for Rlys, CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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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. G. RTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEN R REDDY

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.

470/94.

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered. *admission stop*

No order as to costs.

pvm

