

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.13/99

Dated:

Between

M. Chandra Rao

: Applicant

And

1. Union of India
Rep. by its General Manager
SE Rly., Garden Reach
Calcutta 700 043
2. The Divisional Railway Manager
SE Rly., Waltair
3. M. Satyavathi
Vil. & PO Ayyannapet
Vizianagaram Mandal
4. M. Krishna Rao
S/o Satyawati
Vil. & post Ayyannapeta
Vizianagaram Mandal

: Respondents

Counsel for the applicant

: P. B. Vijaya Kumar
AdvocateCounsel for the respondents 1 & 2
3 & 4: B.N. Sharma, CGSC
: K. Sarvabhowma Rao

Coram

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)



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ORDER

Order (per Hon. Mr. B.S. Jai Parameshwar, Member(Judl.)

Heard Mr. Koteswara Rao, for Mr. P.B. Vijaya Kumar, learned counsel for the applicant and Mr. V. Bhimanna, learned counsel for the respondents No.1 and 2. None appeared for the respondents No.3 and 4.

1. The grievance of the applicant in this OA is that the Respondents No.1 and 2 have not considered his claim for appointment on compassionate grounds on the death of his father Pydithalli, who was working as Hamal, Marshal yard, TP Shed, Marripalem, and who died in harness on 21.9.1980. His further grievance is that ignoring his legitimate claim, the respondents No.1 and 2 have appointed the Respondents No.4 on compassionate grounds on the death of the said employee.

2. The facts narrated in the application are as follows:

a) The deceased employee viz. Pydithalli, was working as Hamal, TP Shed, South Eastern Railway, Vishakapatnam. That the said employee died on 21.9.1980 leaving behind the applicant, his mother, and an younger sister. That at that time of death, he and his sister were aged only 14 and 12 years respectively, that the records maintained by the Respondents No.1 and 2 establish their relationship with the deceased employee, that however, the deceased employee was not taking them to his places of work whenever he was transferred, and that during such working at different places the deceased employee viz. Pydithalli, developed intimacy with the Respondent No.3 and the Respoondent No.3 on account of such illicit relationship gave birth to five children. That as result of the death of his father, his mother submitted a representation dated 8.11.1980 to settle terminal benefits due to the death of his father. That then the Respondent No.3 also made claim for settling the terminal benefits in her favour. That the Respondent No.2 paid a sum of Rs.5,000 representing insurance claim to the Respondent No.3. That when they came to know about the representation dated 8.11.1980 submitted by the mother of the applicant the Respondent No.1 and 2 stopped further payment of retiral benefits and directed the mother of the applicant to obtain a Succession certificate from a competent Court of Law. That accordingly, himself and mother of the applicant filed a Suit in

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No. OS. 74/82 on the file of the Subordinate Judge, at Vizianagaram, for certain relief's. That the said suit came to be dismissed by the Court as per its judgement dated 30.7.1988. They had preferred an appeal in AS.27/94 before the District Judge, Vizianagaram. That the said Appeal ended in a compromise between the parties to the Appeal. That according to the terms of the compromise there was a condition that in accordance with the Railway rules, appointment on compassionate ground should be considered in favour of the eldest son of the deceased employee. That the Railway Board vide Circular No.P.Com/Doly/4 dated 20.1.1992 had laid down that in case of Railway employee dying in harness leaving more than one widow along with the children the appointment on compassionate ground to the second widow and children shall not be considered unless the Railway administration had permitted the Railway employee to enter into the second marriage or under special circumstances taking into consideration the personal laws of the employee and that the alleged marriage between the deceased employee and the Respondent No.3 is not a valid marriage at all. That the Respondent No.3 is not the legally wedded wife of the deceased employee. That in accordance with the Compromise decree No.AS.27/94 dated 8.9.1994 his case ought to have been considered by the Respondents for appointment. That his mother again submitted representation dated 17.4.1996 to the respondents for providing appointment to the applicant and that the respondents have not taken any action on the representation.

3. Hence, he has filed this OA to declare that the inaction on the part of the respondents No.1 and 2 in considering the case of the applicant for appointment on compassionate grounds as illegal, arbitrary and for a consequential direction to the Respondent No.1 and 2 to consider his case.

4. The respondents No.1 and 2 have filed their reply with material papers.

5. The respondent No.4 has also filed a reply. The respondent No.3 has not filed any separate reply.

6. The sum and substance of the reply filed by the Respondent No.1, 2 and 4 is that after the death of Pydithalli the Respondent No.3 was appointed as Hot Weather Water Woman on a temporary basis for a period of four months during summer season. That however, her engagement in the Railways continued as such. Subsequently in accordance with the terms of the compromise decree entered into between the parties in AS.27/94 dated 8.9.94, the said

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engagement of the Respondent No.3 as Hot Weather Water Woman was discontinued and in her place the Respondent No.4 was appointed on compassionate ground on the death of Pydithalli. Thus they submit that the applicant cannot claim appointment on compassionate ground. Accordingly they justify their action in providing appointment to the Respondent No.4 on compassionate ground. Further the Respondent No.1 and 2 submit that the instructions of the Railway Board referred to in the OA are not applicable to the case on hand.

7. From the averments made in the application and the reply by the Respondent No.1 and 2, it is clear that the applicant, his mother, and his sister filed a suit for obtaining terminal benefits due to the deceased employee viz. V. Pydithalli. Their suit was dismissed. However, against the said judgement, the applicant, his mother and his sister had preferred an appeal in AS.27/94. On 8.9.94 the applicant, his mother and his sister entered into compromise between the Respondents No.3 and 4 and others. The respondents have produced the copy of the Compromise deed accepted by the Court. The conditions No.3 and 4 of the Compromise deed are very relevant. They are reproduced below:

"3. According to the rules of the Railway the job which would be given on compassionate grounds, after the death of the incumbent is agreed to be given to the 5th respondent viz. Mandala Krishna rao, son of late Pyudithalli (late Pydithalli being the incumbent on the Railways) who is No.2 in 'B' party.

4. The ad-hoc temporary appointment was given to Mandala Satyavathi (No.1 in 'B' party) and she is now separately giving a letter to the Railway authorities that her ad-hoc temporary appointment may be cancelled and the permanent appointment be given to Mandala Krishna rao (the 4th respondent in the appeal and No.2 in the 'B' party) on compassionate grounds."

8. It is as per the said conditions 3 and 4 the respondents 1 and 2 submit that they provided appointment to the Respondent No.4. They also stated that the Respondent No.3 was earlier engaged as Hot Weather Water Woman on temporary basis and as per the conditions of the decree she relinquished the job and requested the Respondents No.1 and 2 to provide appointment on compassionate grounds to the Respondent No.4.

9. The applicant took time to file rejoinder to the replies filed by the Respondents No.1, 2 and 4. Even though sufficient time was granted to the applicant he failed to file any rejoinder.

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10. Further the Respondents No.1 and 2 have produced material papers to substantiate their contentions and justification in providing appointment to the Respondent No.4 on compassionate ground on the death of Pydithalli.

11. On perusal of material papers and the replies filed by the Respondent No.1,2 and 4 I am not inclined to accept the contentions of the applicant that the respondents 1 and 2 have failed to consider the case of the applicant for appointment on compassionate grounds. The respondents No.1 and 2 are expected to provide appointment to a dependent of the deceased employee. Thus the respondents have fulfilled their obligation in providing appointment to the Respondent No.4. Therefore there is absolutely no need to give direction to the Respondent No.1 and 2 consider the case of the applicant's appointment on compassionate ground on the death of Pydithalli.

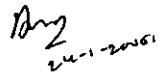
12. The applicant has not made any efforts to convince me that an eldest son alone should be provided for, and that her mother was the first wife of the deceased employee. Hence, the circular dated 20.1.1992 has no relevance to this case.

13. For the reasons stated above, I find no merits in the OA. The applicant is not entitled to any of the relief's claimed in the OA.

14. The OA is accordingly dismissed. No order as to costs.


 (B.S. JAI PARAMESHWAR)
 Membedr (Judl.)
 24.1.2000

Dated : 24 January, 2000


 24.1.2000

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

1ST AND 2ND COURT

3/1/2000

COPY TO:

1. HON'BLE
2. CHRRN M (ADMN.)
3. HBSJP M (JUDL.)
4. D.R. A (ADMN.)
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN
MEMBER (ADMN.)

THE HON'BLE MR.B.S.JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 24/1/2000

MAILED/CP.NO.

IN

OA. NO. 13/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOUED

CP CLOSED

BA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

(8 copies).

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकार अधिकार
Central Administrative Tribunal
मुद्रण / DESPATCH

27 JAN 2000

हैदराबाद न्यायालय
HYDERABAD BENCH