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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00110/2017

Monday, this the 9th day of April, 2018

CORAM:

HON'BLE Dr.K.B.SURESH, JUDICIAL MEMBER

R.Ratheesh,
S/o.late A.K.Raveendran,
Residing at Punnackal House,
Vellakinar Ward, Pulayan Vazhi,
Alleppey HPO – 688 001.

...Applicant

(By Advocate M/s.T.C.Govindaswamy & Ms.Kala.T.G)

V e r s u s

1. Union of India represented by the General Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 600 003.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
3. The Sr. Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
4. Ms.V.K.Sudharma,
No.35/541-A, Thalparambil,
Kuthirpanthy Ward, Alappuzha – 688 002.

...Respondents

**(By Advocates Mr.P.R.Sreejith,ACGSC [R1-3]
& Mrs.Shameena Salahudheen [R4])**

This application having been heard on 9th April 2018 the Tribunal on the same day delivered the following :

ORDER

Heard. The matter relates to competing claims for compassionate appointment between the step-mother and son of a deceased Government employee. Apparently as the records indicate vide Annexure A-8 this Tribunal had decided to give the opportunity of deciding who among them is more suitable to the respondents and the respondents have now chosen the step-mother.

2. I have heard all the counsel in the matter. Apparently the case is now that Smt.Sudharma has another daughter in earlier marriage and she had claimed that this daughter is born from the present marriage with Shri.Raveendran and claimed a per strip division in the DCRG. Accordingly the railway authorities have divided it 50:50 between the step-mother and the sons in the earlier marriage of Shri.Raveendran. Now it appears from Annexure A-3 series that on 3.12.2014 the Kerala State Cooperative Bank Limited, Alleppey Branch had issued a notice indicating that vide No.15/508/5963 dated 14.9.2012 Shri.Raveendran had taken a loan of Rs.Five Lakhs and it has become due. The subsequent notices vide Annexure A-3 dated 14.10.2014 also eluminate this point. Thereafter probably because he is a gurantor against the applicant Shri.Ratheesh, bank issued one more notice dated 28.10.2015. It is submitted at the bar that this amount was taken by Shri.Raveendran for his treatment. This may be correct or not. But this amount was taken by Shri.Raveendran and going by pious obligation

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available under Hindu laws and consequent legal formation the beneficiary of death of Shri.Raveendran would be eligible to complete this obligation. This liability is therefore on the part of the step mother Smt.Sudharma as she had obtained the compassionate appointment through the agency of Shri.Raveendran as otherwise justice as its concept and system will not be satisfied. At this point of time the learned counsel for Smt.Sudharma raise an objection that this responsibility may also be made 50:50. It is rejected for the same ground that employment cannot be made 50:50 and the salary cannot be made 50:50. The salary and benefits due from employment will be with Smt.Sudharma till the day she dies and thereafter if possible to legal heirs. That being so, she is entirely eligible and liable for shouldering the burden of Shri.Raveendran on whose agency she obtained job. To hold otherwise is to deny justice. Therefore, it is the responsibility of the Railways to see that a suitable deduction is made from the salary in accordance with Section 60 of the CPC and remitted regularly with the Alleppey Branch of Kerala State Cooperative Bank Limited on the loan taken by Shri.Raveendran and a letter to this effect shall be issued by the Railways to the said bank within ten days from the date of receipt of a copy of this order. Following which every month as provided in Section 60 of CPC appropriate amount shall be deducted from the salary and allowances of Smt.Sudharma to satisfy this debt. If Smt.Sudharma objects to this then immediately the Railways will cancel her employment and seek to realise expenses in response to her application for selection from her. But then Shri.Siby J Monippally representing

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Smt.Shameena Salahudheen raises an objection that this may create some difficulties for Smt.Sudharma as the Railways are still under the colonial hang over. It may be so, but justice is a two sided weapon. It must be equally applicable to both sides. But then the employment order given to Smt.Sudharma need not be cancelled, if she gives immediately an undertaking that she is ready to bear the burden of debt of Shri.Raveendran through whose agency she now got employment. She cannot be allowed to have both the benefits. If she is taking the benefit under Shri.Raveendran than she should take the responsibility for Shri.Raveendran also. It is with this sacred promise only she is getting a compassionate appointment which is actually a backdoor employment. Therefore, unless the Railways are absolutely sure that she will live up to the contract of clearing the dues of Shri.Raveendran, it is hereby declared that she has no right for any compassionate appointment. This is to be implemented within next ten days.

3. The O.A is thus disposed of as above with the above directions. No order as to costs.

(Dated this the 9th day of April 2018)

(Dr.K.B.SURESH)
JUDICIAL MEMBER

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List of Annexures in O.A.No.180/00110/2017

- 1. Annexure A-1** - True copy of letter bearing No.V/Z.735/7/2017 dated 9.1.2017 issued by the 3rd respondent.
 - 2. Annexure A-2** - True copy of certificate handed over by the Government TD Medical College Hospital, Alleppey.
 - 3. Annexure A-3** - True copies of Demand Notices issued from the Kerala State Cooperative Bank Ltd., Alleppey dated 3.2.2014, 14.10.2014 and 28.10.2015.
 - 4. Annexure A-3(a)** – True translation of A3 series.
 - 5. Annexure A-4** – True copy of sale deed dated 2.7.2015.
 - 6. Annexure A-5** – True copy of agreement dated 1.8.2015.
 - 7. Annexure A-6** – True copy of representation submitted by the applicant dated 24.2.2015 to the 2nd respondent.
 - 8. Annexure A-7** – True copy of letter bearing No.A.86/TVC/2015/16/R&E/RTI/79 dated 21.4.2016, issued by the Public Information Officer, Southern Railway, Trivandrum.
 - 9. Annexure A-8** – True copy of order dated 23rd November 2016 in O.A.No.180/00918/2005 rendered by this Hon'ble Tribunal.
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