

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ORIGINAL APPLICATION NO. 180/00487/2017**

Monday, this the 8<sup>th</sup> day of October, 2018

## **CORAM**

## **HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

Sunitha V.N, 34 years  
D/o.V.N.Unnikrishnan (Late)  
House No.116/1  
Velath Nambarath House, Kaniyannur Paradur  
Pallipuram Post, Pattambi, Palakkad ... **Applicant**

**[By Advocate Mr.U.Balagangadharan]**

V.

1. Union of India represented by General Manager  
Southern Railway  
Park Town, Chennai-600 003
2. The Chief Personnel Officer  
Southern Railway Park Town, Chennai-600003
3. The Deputy Chief Personnel Officer  
Southern Railway Park Town, Chennai-600 003
4. The Senior Divisional Personnel Manager  
Southern Railway, Divisional Office  
Palakkad Division, Palakkad-678 009
5. The Divisional Railway Manager  
Palakkad Division, Southern Railway  
Palakkad 678 009

**(By Advocate Mr.Millu Dandapani)**

This application having been finally heard on 3.10.2018, the Tribunal on 8.10.2018 delivered the following in the open court.

ORDER

**Per: MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

O.A 180/00487/17 is filed by Ms.Sunitha V.N, against the rejection of her claim for compassionate appointment. The relief sought in the Original Application are as follows:

“ i) Call for the records leading to Annexure A-10 and Annexure A-12 and set aside the same as legally and factually unsustainable.

ii) Direct the second respondent to consider appointing the applicant on compassionate grounds in the light of the indigent situation after the death of her father untrammelled by the reasons stated in Annexure A-10 and Annexure A-12.

iii) Declare that the applicant is entitled to be granted compassionate grounds considering the indigent situation due to the death of her father and

iv) Such other reliefs that the Hon’ble Tribunal deem fit in the facts and circumstances of the case. “

2. The applicant’s father, late Sri.V.N.Unnikrishnan, was Trackman in the Permanent Way section at Shoranur, Palakkad Division. He passed away while in service on 21.12.2011. The deceased is survived by his wife (mother of the applicant) and the applicant’s sister. A copy of the Legal Heirship certificate issued on 3.9.2015 is at Annexure A-2. Applicant had married one Mr.Anandan on 28.12.1999 and two girl children were born to them, who are now 15 and 13 years. It is stated in the Original Application that the husband was constantly harassing the applicant and deserted her in May 2003 and has not returned. Since then, until the death of her father, the applicant and her two children were dependent on her father. The applicant had filed a Maintenance

Case in 2008 as MC 56/2008 before the Judicial First Class Magistrate, Pattambi under Section 12 of the Protection of Women from Domestic Violence Act and the learned Magistrate by order dated 19.7.2013 had ordered payment of maintenance of Rs.1500/- each to her daughters, while the applicant relinquished her claim for maintenance being dependent on her father. A copy of the order of JFCM is produced as Annexure A-3.

3. After the death of her father, her mother requested for compassionate appointment for the applicant on 30.5.2012. Necessary documents were submitted as called for. The applicant informed the respondents that she had already moved Family Court for decree of divorce from her husband as per OP 456/2014 and the case was pending before the said Court. Finally, through judgment in OP 456/2014 dated 29.1.2015, divorce was granted and the marriage of the applicant with the aforesaid Mr.Anandan was dissolved. Citing these facts, along with an undertaking that she will look after her mother, the applicant again petitioned the respondents. But the same was rejected by the respondents on the ground that the applicant had no role as a bread winner in the family of the late employee (Annexure A-10 impugned).

4. Applicant approached this Tribunal by filing O.A 93/2016 and this Tribunal was pleased to allow the O.A, observing the fact that since the applicant was living with her parents from May 2006 onwards, it can be presumed that she was under the care and protection of the deceased employee.

If the General Manager was still not satisfied about the bread winner status of the applicant, applicant can be called upon to give an undertaking that she will look after her mother . The order in O.A is at Annexure A-11.

5. Regrettably, the 3<sup>rd</sup> respondent again rejected the claim stating that the dependent divorced daughters can be considered for compassionate appointment provided such divorced daughter was wholly dependent on the ex-employee at the time of death. Respondent no.3 also quoted several instructions of the Railway Board on the bread-winner status of the daughter and also relating to legal marital status of the applicant. Besides, the mother of the applicant has no minor dependents to be taken care and she is receiving family pension. A copy of the order dated 24.5.2017 is produced and marked as Annexure A-12.

6. By way of reply, respondents have opposed the contentions made in the Original Application. While admitting the facts of the deceased employee's service, it is stated that as per Railway Board's order No.E(NG)III/78/RC-I/I dated 3.2.1981, while considering the married daughter for compassionate ground appointment, the criteria whether the married daughter will be bread-winner for the family and also whether there are any other wards in the family who are economically dependent on the family have to be considered. Further, in terms of Railway Board's clarification vide No.E(NG)II/99/RC-1/ICF/4 dated 30.7.1999/3.8.1999, if there are no other wards to be looked after, then

there would be no justification for considering a married daughter for compassionate appointment. Further, by RBE No.70/14, ‘the claims are to be considered for employment of married daughters, if they satisfy themselves that the married daughter will be the bread-winner of the family of the Railway servant concerned’. The Zonal Railway authorities have no discretion in providing compassionate ground appointment as the Railway Board has spelt out clear policy guidelines on the subject.

7. In the instant case, the applicant was not legally divorced at the time of her father’s death on 20.12.2011 and therefore, she cannot be treated as dependent on her father. Besides, the wife of the deceased employee has no other minor dependents to be taken care of. In compliance with the orders of this Tribunal in O.A 180/92/2016, the Chief Personnel Officer has informed the applicant that she was not legally divorced at the time of her father’s death. At the time of the submission of the application, the status of the applicant was ‘Married Daughter’ of the late employee. Further, there is no evidence that she had a breadwinner role in the family.

8. Heard Mr.U.Balagangadharan, learned counsel for the applicant and Mr.Millu Dandapani, learned counsel for the respondents and perused the records.

9. This is a case in which this Tribunal had delved into the current status of

the applicant. In the order dated 6.3.2018 in O.A 180/00092/2016 this Tribunal had observed that :

“ 6. It appears that the respondents have been unduly giving more importance to the decree of divorce as a precondition for appointment on compassionate grounds as the applicant herein was a married daughter. The scheme of compassionate appointment has been now modified to bring in its fold the applications made by the married daughters also. Therefore, the relevancy of a decree of divorce is absolutely irrelevant, if the applicant makes a declaration that she would look after the widow and other dependants of the deceased employee. The record in this case show that from May, 2003 the applicant was living separately from her husband and had taken refuge under her father. Her father died only on 21.12.2011. She states in the meantime she had secured a Court order for maintenance for the girl children from her husband. Annexure A-3 is the copy of the order passed by the Judicial Magistrate, First Class, Pattambi wherein it is noted that the applicant started residing with her parents when she was manhandled by her husband while she was carrying the second child. Annexure A-6 is a decree she obtained on 29.1.2015 wherein also it has come on record that due to harassment of her husband she was living separately from him from 12.5.2006.

7. Since it has come in the evidence that the applicant was living with her parents at least from May, 2006, it has to be presumed that she was under the care and protection of the deceased employee. It is worth noting that Annexure A-3 order of maintenance was only for her two children and not for herself. In the above circumstances and in the light of the foregoing discussion, it appears to this Tribunal that the contention of the respondents that General Manager was not satisfied with the ‘bread winner’ status of the applicant’ requires a reconsideration especially when the applicant had made it clear by way of a declaration that she undertakes to look after the widow ie, her mother, if she is granted appointment on compassionate grounds. If the applicant is given employment on compassionate grounds, in the event of getting a complaint from the widow that she is not being looked after properly by the applicant it is always open to the respondents to terminate the appointment.

8. Accordingly, while quashing and setting aside Annexure A-11 communication the respondents are directed to reconsider the case of the applicant in the light of the observation made in this order and to consider her request for appointment on compassionate grounds in tune with the extant administrative instructions regarding compassionate appointment for married daughters. For this purpose, the respondents are free to obtain a sworn affidavit from the applicant to ensure that she will look after the widow of the deceased Railway

employee and that she is aware that appointment is liable to be terminated in the event she fails to look after the widow. The above exercise shall be completed by the respondents within two months from the date of receipt of a copy of this order. Ordered accordingly. “

10. Having considered the reply statement and the submissions made by learned counsel for the respondents, we cannot but conclude that the applicant's claim has not been considered with due diligence as ordered by this Tribunal in the Original Application referred to. While instructions of the Railway Board indicate that the issue of marital status and the role of breadwinner have to be looked at, it is necessary to apply the yardsticks to the specific particulars of a given case.

11. It is admitted that the applicant had approached the Judicial First Class Magistrate as early as in 2008 detailing harassment and seeking maintenance for her children. She had also been successful in obtaining the maintenance grant for her children. The social status around a divorced daughter who has two small children to take care of, can well be imagined. There is no case that she has other ostensible means of livelihood and was clearly dependent on her father for sustenance. In so far as her role as bread-winner of the family is concerned, the wife of the deceased employee (mother of applicant) and the applicant's sister have both supported the compassionate posting application of the applicant. Besides, this Tribunal had also ordered in the operative part of the judgment that an undertaking may be obtained from the applicant that she

will take care of her widowed mother. These being the facts, there is no reason why the respondents should take such a hard stand interpreting the Railway Board's declarations in the harshest way possible.

12. In view of the above circumstances, this Tribunal directs respondent no.1 to consider the case of the applicant afresh with due respect to the observations made above and take a balanced view on the application for compassionate appointment made by the applicant. This may be done within 30 days from the date of receipt of a copy of this order.

13. The Original Application is disposed of as above. No costs.

**(E.K.BHARAT BHUSHAN)  
ADMINISTRATIVE MEMBER**

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**List of Annexures**

Annexure A-1 - A true copy of death certificate dated 16.6.2012 issued by Corporation of Chennai

Annexure A-2 - A true copy of legal heirship certificate dated 3.9.2015 issued by Tahsildar, Pattambi along with English translation.

Annexure A-3 - A true copy of order in MC 56/2008 dated 19.7.2013 of Judicial Magistrate, Ist class, Pattambi

Annexure A-4 - A true copy of letter of 3<sup>rd</sup> respondent dated 5.7.2012

Annexure A-5 - A true copy of letter of 4<sup>th</sup> respondent dated 4.6.2013

Annexure A-6 - A true copy of judgment in OP 456/14 dated 29.1.2015 of the Family Court, Ottapalam

Annexure A-7 - A true copy of declaration of the applicant dated 30.2.2015

Annexure A-8 - A true copy of No objection certificate submitted jointly by the mother and sister of the applicant dated 7.2.2012

Annexure A-9 - A true copy of SSLC certificate of the applicant dated 22.10.2013

Annexure A-10 - A true copy of letter No.J/P Con/CGA/22/12 of 4<sup>th</sup> respondent dated 3.9.2015

Annexure A-11 - A true copy of order in O.A 92/2016 dated 6.3.2017 of this Hon'ble Tribunal

Annexure A-12 - A true copy of letter No.PB/CS/30/PGT/2012/16 dated 24.5.2017 issued by third respondent

Annexure A-13 - A true copy of judgment in Ajith Kumar vs. Canara Bank, 2016(2) KLT 914 of the Hon'ble High Court of Kerala

Annexure R1(a) - True copy of the RBE No.70/2014 dated 8.7.2014

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