

**Central Administrative Tribunal
Madras Bench**

OA/310/01489/2016

Dated Wednesday the 5th day of September Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

C.K. Kanmani
Thideer Nagar
OddenChaththiram
Dindigul – 624 619.

.. Applicant

By Advocate M/s. Ratio Legis

Vs.

1. Union of India represented by
The General Manager
Southern Railway
Park Town, Chennai.

2. The Senior Divisional Personnel Officer
Madurai Division
Southern Railway, Madurai – 16. .. Respondents

By Advocate Dr. D. Simon

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. The applicant has filed this OA seeking the following relief:-

“To call for the records related to impugned order No. U/Z.735/I/36/2008 dated 12.04.2011 issued by the 2nd respondent and to quash the same and further to direct the respondents to do the necessary to consider applicant for compassionate ground appointment in terms of the mandatory provisions and to pass such other order/orders”

2. It is submitted that the applicant's father died on 05.05.2008 while in service. The applicant's mother sought compassionate appointment for the applicant for which she was directed to submit a No Objection Certificate (NOC) from her elder son C.K. Kannan. The NOC was submitted to the competent authority after which Annexure A4 order dated 12.04.2011 came to be passed rejecting the request for compassionate appointment to the applicant on the ground that the applicant's brother was already working as a teacher and the applicant's mother was in receipt of family pension.

3. It is submitted that the respondents could not reject the request for compassionate appointment through such a summary order without going into the facts of the case. The applicant, though married was separated from her husband and divorce proceedings are under way in the court. Accordingly she must be treated as a dependent member of the family of the deceased employee who could be granted compassionate appointment for taking care of her mother. Attention is

drawn to Annexure R5 report submitted by APO/M&E dated 13.11.2009 regarding the family composition and confirming the fact of a pending divorce case. It was also indicated in the report that the family had no movable or immovable property. Accordingly the competent authority should have assessed the financial condition of the family in an objective manner before arriving at a decision whether the family required support in the form of compassionate appointment or not.

4. Learned counsel for the respondents would, however, submit that the applicant's mother was in receipt of family pension and her brother was employed as a teacher. There was no evidence to show that the family was in financial distress and accordingly the respondents were right in rejecting her claim for compassionate appointment. It is also submitted that this OA had been filed 5 years after the impugned order was issued and is accordingly time barred.

5. I have considered the facts of the case and the submissions made by the rival counsel. As far as delay in filing the OA is concerned, this Tribunal by an order dated 14.09.2016 had already condoned the same and, therefore, the issue could not be agitated again now at the time of final disposal. On perusal of the impugned order and also the reply of the respondents, it appears that the applicant's case was rejected only on the ground that the General Manager was not satisfied that the family required such support. It is stated that the son of the deceased employee refused to take up the appointment in Group D post immediately which was offered to him for want of vacancies in Group C post. Though the applicant's brother was informed that he would be considered for a Group C post subject to passing of suitability test and medical examination, he

refused to accept the offer. As such the respondents could not be faulted for concluding that there was no sudden crisis in the family warranting a compassionate appointment. However, while the fact of the applicant's brother refusing such appointment could weigh with the competent authority while taking a decision, it cannot be the sole ground for rejection of the applicant's request. It is no substitute to an objective assessment which the competent authority is expected to carry out in such matters. I am accordingly of the view that the competent authority must reconsider the matter in a more objective manner and pass a reasoned and speaking order.

6. In view of the above, Annexure A4 communication dated 12.04.2011 is set aside and the competent authority is directed to consider the request of the applicant for compassionate appointment objectively in terms of the relevant Railway Board circulars and pass a reasoned and speaking order within a period of two months from the date of receipt of copy of this order.

7. OA is disposed of with the above direction. No costs.

(R.Ramanujam)
Member(A)
05.09.2018

AS