

**Central Administrative Tribunal
Madras Bench**

OA/310/01124/2017

Dated Tuesday the 18th day of September Two Thousand Eighteen

P R E S E N T

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

V. Kumar
North Street
Ariyakoshi Vilage
Parangipettai
Chidambaram Taluk. .. Applicant

By Advocate M/s. Ratio Legis

Vs.

1. Union of India rep. by
The General Manager
Southern Railway
Park Town, Chennai 600 003.
2. Additional Chief Medical Superintendent / IC
Divisional Office, Medical Branch
Golden Rock
Tiruchchirappalli.
3. The Divisional Personnel Officer
Tiruchchirappalli Division
Southern Railway
Tiruchchirappalli. .. Respondents

By Advocate Mrs. Meera Gnanasekar

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 the impugned order No. T/PC-85/3663 dated 07.11.2016 and the related medical reports and further to direct the respondents to consider the applicant for compassionate appointment in terms of the existing mandatory provisions under medical manual with minimum classification and to pass such other order/orders”

2. It is submitted that the applicant is the son of the first wife of the deceased Railway employee G. Venkatesan who died on 19.02.2009 while in service. The applicant sought compassionate appointment in consequence thereof which was accepted by the competent authority. However, as the applicant was found medically unfit in all categories, he could not be offered compassionate appointment. In the meantime the applicant's step mother and step brother approached this Tribunal in OA 1320/2016 seeking compassionate appointment which was disposed of by an order dated 22.07.2016 directing the competent authority to consider their representation and pass a speaking order. The second applicant therein was given an offer of appointment in pursuance thereof by Annexure R9 communication dated 12.01.2018 addressed to the first applicant therein.

3. Learned counsel for the applicant would submit that the applicant had been impleaded as the third respondent in the aforesaid case and the Tribunal had

passed the order without issuing notice to the applicant as if the dispute was only between the applicants therein and the official respondents. It is submitted that between the applicant herein and the second applicant in the aforesaid case, the applicant deserved much greater sympathy and compassion as the applicant himself is suffering from various illnesses besides having to look after a dependent brother who is mentally retarded. In as much as this Tribunal had disposed of the case without giving an opportunity to the applicant herein to file a reply, the offer made by the competent authority to his step brother in pursuance thereof could not be said to be in accordance with the principles of natural justice. The applicant would be satisfied if the respondents are given a direction to ensure that before being appointed the applicant's step brother gave an undertaking that he would utilise his remuneration from the job for the purpose of maintaining the whole family including the applicant and his mentally retarded brother.

4. Learned counsel for the respondents would submit that the applicant's step brother though offered appointment had not joined till date. The respondents would act in accordance with any direction of this Tribunal might wish to give in the facts and circumstances of the case.

5. On perusal, it is seen that OA 1320/2016 was disposed of by an order dated 22.07.2016 at the admission stage without hearing the 3rd respondent i.e. the applicant herein. However, it is also a fact that the applicant has filed the instant OA without impleading his step brother. As such, no order can be passed by this Tribunal affecting the interests of his step brother without hearing him.

6. In the above facts and circumstances of the case, I am of the view that this

OA could be disposed of with the following direction:

“As the applicant's step brother has not yet accepted the employment offered to him and joined the post and in the mean time the applicant has raised an objection before this Tribunal regarding the implementation of the direction given to the respondents without giving an adequate opportunity, the applicant herein is permitted to make a representation to the respondents raising his objections to the appointment offered to his step brother and also seeking any assurance regarding maintenance of the family including his mentally retarded brother and himself within a period of one week from the date of receipt of copy of this order. On receipt of such representation the respondents shall, after hearing both sides ie. applicant as well as his step brother, act in accordance with law and in the best interests of justice and pass a reasoned and speaking order within a period of two months thereafter.

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

(R.Ramanujam)
Member(A)
18.09.2018

AS