

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00472/2017

Dated Tuesday the 17th day of April Two Thousand Eighteen

PRESENT

HON'BLE SMT. B. BHAMATHI, Member (A)

1.J.Pushpa,
2.J.Mohanapriya.Applicants

By Advocate M/s. S.Radhakrishnan

Vs

1.Union of India rep by the General Manager,
Southern Railway,
Head Quarters Office,
Park Town,
Chennai 600003.
2.The Senior Divisional Personnel Officer,
Southern Railway,
Madurai Division,
Madurai 600016.Respondents

By Advocate Mr. D. Hariprasad

ORAL ORDER**(Pronounced by Hon'ble Smt. B. Bhamathi, Member(A))**

The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

"The applicant's application has to be considered on sympathetic ground for the reason that all are women and also the 2nd applicant is eligible for clerical post as she had completed her BA degree. The Government is giving preference and also 30 % reservation for women. The applicant's family is having three female children and no male members in the family. Hence, the respondents have to consider the applicant's appointment either as clerk or equivalent post to shoulder the responsibility of the family in Indian Railways."

2. It is submitted that the applicants are the legal heirs of the deceased employee Mr. Jeyapaul who joined the Railways department in the year 1978. It is submitted that since the deceased employee was a chronic asthamatic patient, he was required to take ayurvedic treatment in his native village and therefore he could not attend the duty and also could not receive any communications from his department. He was removed from service on 10.07.1998 for unauthorized absence. The mercy petitions submitted by the deceased employee were rejected. The 1st applicant approached the 2nd respondent for compassionate appointment for the post of sweeper which was ultimately turned down. Thereafter, the 1st applicant approached the respondents with request for appointing the 2nd applicant under compassionate grounds. Since there was no response

from the respondents, the applicants have filed this OA.

3. The respondents have filed their reply statement contesting the claim of the applicants. It is stated that compassionate appointment is granted to the wards of the employee who had either expired while on service or was declared medically unfit and not the wards of employees who were removed from service. Accordingly, they have prayed for dismissal of the OA.

4. Heard both counsels at length. In the course of oral arguments, learned counsel for applicant submits that the prayer of the applicants may be considered on sympathetic grounds. Learned counsel for the respondents submits that since the deceased employee was removed from service, as per rules, the prayer of the applicants for compassionate appointment is not tenable.

5. On perusal, it is not disputed that the deceased employee was removed from service in the year 1998. Hence, the applicants are excluded from consideration for compassionate appointment, as per the scheme for compassionate appointment formulated under Article 309 of the Constitution of India. Learned counsel for applicants does not dispute the fact that the deceased employee was removed from service, but he only wants sympathetic consideration. Since, on removal from service, no jural relationships remains between the

employee and the employer, the question of invoking the provisions of the compassionate appointment scheme does not arise and hence the prayer of the applicants for compassionate appointment is liable to be rejected.

6. Therefore, the OA is devoid of merits and is accordingly dismissed. No costs.

(B. Bhamathi)
Member(A)
17.04.2018

SKSI