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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00905/2017

Tuesday, this the 5th day of March, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

Ms.Neethu K.M.,
D/o Late K.M.Mukundan,
Aged 28 years,
residing at C/o Valiyaveettil House,
Perikadu, Eroor West Post,
Tripunithura, Ernakulam – 682 306.Applicant

(By Advocate Mr.R.Premchand)

V e r s u s

1. Union of India,
Represented by
General Manager,
Southern Railway,
Headquarters office,
Park Town, Chennai-600 003.
2. The Senior Divisional Personnel Officer,
Divisional Office, Personnel Branch,
Southern Railway.
Thiruvananthapuram-14.Respondents

(By Advocate Mrs. Girija K. Gopal for Respondents)

This application having been heard on 20th February, 2019, the Tribunal
on 5th March, 2019 delivered the following :

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ORDER

OA No.905/2017 is filed by Smt.Neetu K.M., D/o late Shri K.M.Mukundan, against the rejection of her application for grant of appointment on compassionate ground. She seeks the following reliefs:

- a) to call for the records leading up to the issuance of Annexure A8 order No.V/Z735/15/2016 issued by the 2nd respondent dated 19/12/2016 and to quash the same.
- b) to issue a direction to the respondents to consider the applicant for appointment under the railways on compassionate grounds.
- c) to issue such other orders or directions as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

2. The applicant is the daughter of the late Shri K.N.Mukundan, who had died while in service of the respondents. The death had occurred on 27.08.2015, as per copy of the Death Certificate at Annexure A1. The applicant submits that she had been living with her parents and after the death of her father her mother was sanctioned family pension with effect from 22.08.2015. However, the applicant's mother was seriously afflicted with breast cancer and filed a request before the authorities on 10.12.2015 seeking an appointment under compassionate ground for the applicant (Annexure A3).

3. The applicant submits that she had entered into marriage with a person of another community in 2012 when she was only 22 years. It was not a happy union due to various reasons and she had come back to live with her

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parents in March, 2013 itself. Thus at the time of her father's death she was living along with her parents, as is seen from the extract from the ration card produced as Annexure A5. After the death of her parents, the father-in-law of the applicant was considerate enough to allow her to remain at his house. While she has harsh words to state about her husband, she also admits that he fathered a child by her in 2016.

4. Now, despite being a graduate, the applicant has nowhere to go and is required to look after her infant daughter. The application she submitted had been rejected by the respondents through the impugned order stating that the applicant's husband is employed as a driver and the applicant is married and settled. This is not true.

5. The respondents have filed reply statement wherein the contentions made in the OA have been disputed to the extent of her indigence. The applicant had been married in 2012 and was not a dependent of her father. All benefits relating to the deceased employee were released in favour of the widow in time. While considering a married daughter for compassionate ground appointment, the criteria whether the married daughter will be the breadwinner of the family has to be examined and if there are no other wards to be looked after, then there is no justification in considering a married daughter for compassionate appointment as per the Railway Board letter No.E(NG)II/99/RC-1/ICF/4 dated 30.07.1999/03.08.1999.

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6. An enquiry had been conducted into her claim and it was found that the applicant was staying with her husband in a rented house in Tripunithura. The couple were paying Rs.8000/- monthly rent. A copy of the rental agreement is also produced (Annexure R3). The Hon'ble Apex Court in **SBI & Anr. Vs. Rajkumar – (CA No.1641/2010)** has observed:

"It is now well settled that appointment on Compassionate Grounds is not a source of recruitment. On the other hand it is an exception to the general rule that recruitment to public services should be on the basis of merit by an open invitation providing equal opportunity to all eligible persons participate in the selection process. The dependents of employees, who die in harness, do not have any special claim or right to employment, except by way of concession that may be extended by the employer. Under the rules or by a separate scheme, to enable the family of the deceased to tide over the sudden financial crisis".

7. Heard Shri R.Premchand on behalf of the applicant and Smt.Girija K. Gopal, learned Counsel for the respondent Railways. The order impugned states the following:

"SOUTHERN RAILWAY
No.V/Z735/15/16

Divisional Office,
Confidential Section,
Trivandrum,
Dated: 19.12.2016.

Smt.Neethu K.M.,
M/D of (late) K.N.Mukundan,
C/o Valiyaveettil House,
Perikadu P.O.,
Eroor West P.O. Tripunithura,
Ernakulam – 682 306.

Sub: Appointment on compassionate grounds
in f/o Smt.Neetu K.M., M/D of (late)
K.N.Mukundan, Sr.Tech/C&W/ERS
(DD on 22.08.2015)
Ref: Request 02.03.2016.

Your request for appointment on compassionate grounds has not been agreed by the competent authority, DRM, for the following reason.

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"Shri Mukundan Sr.Tech/C&W/ERS expired on 22/08/2015. He was to superannuate on 30/11/2015. He is survived by his married daughter Smt.Neethu (aged 27 years), who has qualified B.A.

The wife of the late employee – Smt Thankamany, has expired subsequent to the demise of her husband on 01/08/2016. she has sought compassionate ground appointment in favour of her married daughter. The settlement benefits received are detailed below:

PF:	58724
DCRG:	100000
GIS:	81742
SSS:	75000

The report of the Assistant Personnel Officer indicates that Smt.Neethu's husband is employed as a driver in a drinking water supply firm. In so far as Smt.Neethu is married and settled, she was not a dependent on her father and there are no other familial responsibilities that have descended upon her consequent to her parent's demise.

Therefore the request for compassionate ground appointment is regretted."

Please note.

Sd/-
(Siddarth S.K.Raj)
Sr. Divisional Personnel Officer"

8. It is necessary to keep in mind that compassionate level appointments are to be carefully bestowed on the most deserving. In order to ensure this, departments and agencies under the Government have formulated criteria to assess relative indigence. The applicant's case had been considered on the basis of a report of the Assistant Personnel Officer. The result has exposed several weaknesses in her claim. She had married and gone out of her father's house atleast three years before his death. The ration card extract which is produced as proof of her residing with her parents is of 2011, which was before her marriage, although the same has been renewed in 2015 and

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renewals of ration cards are often done in a routine fashion. It would not be possible for us to read too much into this exhibit brought before us.

9. Although the applicant claims that she left her husband in May, 2013, she had a child born to her in 2016. This as well as the facts disclosed in Assistant Personnel Officer's report indicate that she is continuing with her matrimonial status. Further she is a signatory to a rental agreement for leasing out a home at Rs.8000/- per month. This is another factor which possibly contests her claim that she is truly indigent.

10. The applicant has not been able to produce any clinching evidence that she is indigent and also there is no miscarriage of justice on the part of the respondents. Her claim has been properly assessed in line with extant guidelines. The OA is dismissed as lacking in merit. No costs.

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

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List of Annexures in O.A. No.180/00905/2017

1. **Annexure A1** – True copy of the death certificate of late Mukundan K.N. Dated 8/9/2015 issued by the registrar of birth and death, Corporation of Cochin.
2. **Annexure A2** – True copy of the PPO No.20167060400067 dated 15/01/2016 issued by the Div.Finance Manager, TVM Central.
3. **Annexure A3** – True copy of the request submitted by the applicant's mother to the Additional Chief Medical Supdt., HU/ERS dated 10/12/2015.
4. **Annexure A4** – True copy of the discharge summary pertaining to the applicant's mother dated 5/5/2016 issued by the Lakshmi Hospital, Ernakulam.
5. **Annexure A5** – True copy of the extract of the ration card issued to the applicant's family by the city rationing officer, Ernakulam dated 01/02/2011 and renewed in the year 2015.
6. **Annexure A6** – True copy of the degree certificate issued by the faculty of social sciences, M.G.University, Kottayam dated 28/06/2011.
7. **Annexure A7** - True copy of the death certificate of the mother of the applicant dated 25/08/2016 issued by the registrar of birth and death, corporation of Cochin.
8. **Annexure A8** - True copy of the Order No.V/Z735/15/2016 issued by the Sr.Divisional Personnel officer dated 19/12/2016.
9. **Annexure R1** - True copy of the letter No.V/Z735/15/16 dated 06/04/2017.
10. **Annexure A9** - True copy of the Railway Board order No.,RBE 70/2014 dated 08/07/2014.
11. **Annexure A10** – True copy of the order of the Tribunal in OA No.565/2015 dated 18/07/2016.
12. **Annexure A11** – True copy of the order of this Tribunal in OA No.92/2015 dated 06/03/2017.
13. **Annexure A12** – True copy of the order of this Tribunal in OA No.195/2014 dated 27/01/2016.

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14. **Annexure-R2** - True copy of the letter of the applicant dated 23/08/2018.
15. **Annexure R3** – True copy of the rental agreement dated 20/09/2016 made between the applicant and Antony V.J.
16. **Annexure A13** - letter submitted to the respondent by the applicant dated 20/08/2018.
