

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

OA./20/615/2017

CAV on 14/12/2018

Date of Order: 18.12.2018

BETWEEN:

D. Sai Venkata Krishna, S/o.Late Sri D. Venkateswarlu,
Aged about 36 years, Occ: Unemployee,
R/o. Bhima Varipalem, Bapatla,
Guntur District, Andhra Pradesh.

..... Applicant

AND

1. Union of India rep. by its
Secretary, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada Division, Vijayawada.
3. The Divisional Personnel Officer,
O/o. DRM (Personnel Branch),
South Central Railway,
Vijayawada Division, Vijayawada.
4. The Senior Divisional Personnel Officer,
O/o. DRM (Personnel Branch),
South Central Railway, Vijayawada Division, Vijayawada.
5. D. Koteswara Rao, S/o. Late Sri D. Venkateswarlu,
Aged about 27 years, Occ: Kalasi in Electrical Department,
O/o. South Central Railway, Ongole, Prakasam District.

..... Respondents

Counsel for the Applicant : Mr. B. Ratnakara Rao, Advocate
Counsel for the Respondents : Mr. V. Vinod Kumar, SC for Rlys.
Mr. S. Satyanarayana Rao for R5

CORAM

Hon'ble Mr. B.V. Sudhakar, Admin. Member

ORDER

{Per Hon'ble Mr. B.V. Sudhakar, Admin. Member}

Heard both sides.

2. The OA is filed against the action of the respondents in appointment of 5th respondent on compassionate grounds vide letter dated 16.09.2015.

3. The brief facts of the case are that the applicant is the eldest son of the deceased employee who worked for the respondents organisation. The mother of the applicant has made a request to the respondents on 01.04.2010 for compassionate appointment to the applicant enclosing necessary certificates. The same were received by the respondents on 07.12.2011 and thereafter, Welfare Inspector from the Respondents Organisation visited the family and he enquired about the relevant details. Applicant has submitted required certificate for compassionate appointment enclosing no objection from brothers and sisters. Thereafter, the applicant's mother once again addressed the respondents on 01.03.2012 but there is no response even after an year. When he has applied for compassionate recruitment, the respondents appointing the 5th respondent is illegal and arbitrary is the assertion of the applicant. Hence the OA.

4. The contentions of the applicant are that all family members gave consent for providing employment to him as per affidavit submitted on 05.03.2011. The applicant, an unemployed youth and being the eldest son of the deceased employee, need to be given preference. Mother has nominated him to apply for compassionate recruitment. The applicant alleges that though he has submitted several representations, the respondents appointing the 5th respondent, only indicates that they have done so through the back door which is illegal. When the applicant sought information through RTI then the respondents furnished the appointment order issued to the 5th respondent on compassionate grounds. The applicant also contends that the 5th respondent has made an application subsequent to

the application dated 01.04.2010 made by the applicant's mother. The respondents have considered his application which is made earlier to the one given to the respondent by 5th respondent. The applicant claims that the enquiry report of the Welfare Inspector dated 02.03.2015 claims that the 5th respondent is the son of the first wife of the deceased employee. The applicant asserts that he is the eldest son of the first wife. Based on the above facts, the applicant is aggrieved and therefore states that the action of the respondents is arbitrary and illegal.

5. Respondents refuted the contention of the applicant by stating that the mother of the applicant who is wife of the deceased employee can only nominate one of her children for compassionate recruitment. If there is any grievance it is for the mother to file the OA before the Tribunal. The 5th respondent has been appointed by the respondents with the consent of the family members including consent of the applicant in the OA. The respondents confirmed that the applicant is the eldest son and 5th respondent is the youngest son of the deceased employee who died in harness on 03.12.2009. The respondents state that initially the applicant without explaining the details to his mother took her signature on a typed application and submitted for his claim for compassionate appointment. Later with the mutual understanding among the family members of the deceased employee the applicant has been paid his share in cash from the pensionery benefits received by his mother and is staying separately with his family deserting his mother and other family members. In these circumstances, the family decided to give consent for appointment to 5th respondent. Accordingly, mother of the applicant enclosing necessary documents made a request on 10.09.2014 for appointment of 5th respondent

who is looking after her and other family members. On the contrary, the applicant is staying separately after taking his share from the pensionary benefits of the deceased employee. The applicant has independent source of income by working as private tutor and possessing immovable properties at Bapta, Guntur District.

6. Counsel on both sides argued as per the written submissions made by them.

7. The details of the documents reveal that the applicant was married. He is living separately and earning independently by working as Tutor. Respondents also confirm that he has immovable properties at Bapatla. The respondents did send a Welfare Inspector to verify details of the applicant. Welfare Inspector submitted a report in favour of 5th respondent D. Koteswara Rao for compassionate recruitment. While doing so he also submitted no objection letters in the form of affidavits from all other family members. The Welfare Inspector has also reported that the deceased employee is having 2nd wife Smt. Venkata Laxmi who is the sister of the first wife i.e. mother of applicant. The 2nd wife also has son by name D. Kalyan. The 2nd wife and son have also given consent for appointment on compassionate grounds. Further, facts on record indicate that the applicant is not taking care of the mother who is the wife of the deceased employee. This is the primary condition to be satisfied to seek compassionate appointment. Besides, after giving consent to appoint the 5th respondent by taking his share of pensionary benefits, making a claim now is unfair. It is for the deceased employee's wife to nominate a child who would take care of her as per rules. The respondents have doubly got confirmed the details by deputing a Welfare Inspector. Their action is appropriate and

transparent. At the time of arguments learned counsel for the applicant claimed that 5th respondent has produced false documents and that a Police compliant has been lodged. In this regard, it is to be stated that the respondents have sent a responsible officer to verify facts and thereafter took a considered decision. The decision is as per norms. Regarding fake documents it is open to the applicant to pursue with the Police. As on date the respondents after due diligence in regard to the issue have come to a balanced conclusion. Thus Tribunal considering the facts on record and the report of the Welfare Inspector find no merit in the case of the applicant. Hence based on the facts analysed, the OA is dismissed. No order as to costs.

(B.V.SUDHAKAR)
ADMN. MEMBER

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