

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

Original Application No.21/679/2018

Date of CAV: 05.02.2019

Date of Pronouncement: 07.02.2019

Between:

L. Laxmi, W/o. L. Shiva Raj,
Aged about 34 years,
Occ: Household, Gr. C,
Gurudotla Village, Dornal Post,
Dharur Mandal,
Vikarabad District,
Telangana – 501121.

... Applicant

And

1. Union of India,
Represented by the General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager,
South Central Railway,
Secunderabad Division,
Sanchalan Bhavan,
Secunderabad.
3. Senior Divisional Personnel Officer,
South Central Railway,
Secunderabad Division,
Sanchalan Bhavan,
Secunderabad.

... Respondents

Counsel for the Applicant ... Mr. M.C. Jacob

Counsel for the Respondents ... Mr. V. Vinod Kumar, SC for Rlys

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER

{Per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The applicant has filed the OA as her request for Compassionate Appointment was not acted upon by the respondents.

3 The husband of the applicant while working for the respondents organisation passed away on 20.3.2015. On the death of her husband, applicant being the wife was given the funeral advance. This was followed up by collecting family details through a welfare officer to release terminal benefits. While the process was on, mother-in-law of the applicant Smt.Shankaramma approached the Honourable High Court of Judicature for the State of Telangana and Andhra Pradesh in WP No. 22915 /2015, claiming that she is entitled for pension and other retiral benefits. Honourable High Court gave an interim order on 24.07.2015 staying all the payments related to the deceased employee. Consequently respondents have withheld the terminal benefits including family pension. Applicant has filed vacate stay petition on 20.08.2016 and it is pending adjudication. Being in financial distress, the applicant represented on 23.2.2016 for compassionate appointment which was registered as case no 22/2016. There being no further action, applicant once again represented on 16.8.2017 but of no avail and hence the OA.

4. The contentions of the applicant are that the respondents themselves vide their letter dt 22.8.2017 have emphasized on the need to complete processing of Compassionate recruitment cases within 4 months. The applicant's request is more than 3 years old and is still kept pending. The concerned Tahsildar has issued the legal heir certificate and the family particulars. Even in the Writ petition filed before the Honourable High Court the applicant was impleaded as wife of the deceased employee. Stay vacate petition was also filed pleading that

the High Court has no jurisdiction to entertain the case and as per rules she is eligible. The applicant strongly contends that records prove beyond iota of doubt that she is the legally wedded wife of the deceased employee. Applicant's Mother in law has filed the writ petition seeking retiral benefits and not compassionate recruitment. Therefore, it is conceptually incorrect on part of the respondents to take the stance that in view of the interim order they are not processing the request for compassionate recruitment. The applicant is without any means to survive and the only small straw she can cling to, is the compassionate recruitment, which the respondents are unable to appreciate.

5. Respondents contend that the mother of the deceased employee approached the Honourable High Court claiming that she is the legal heir and that the death benefits like pension, gratuity, group insurance etc have to be paid to her, without quoting any rule. Honourable High Court has issued an interim order in WP no 22915/2015 ordering "not to make disbursements of the retiral benefits until further orders". Applicant did represent on 16.8.2017 stating that her mother in law has also mischievously claimed and received Rs.8,00,000 towards insurance claim from LIC against the LIC policy that stood in the name of the deceased employee. The staff and welfare inspector contacted the local people of Dharur village and found that the ex- employee earlier married Smt Amrutha. The later got separated from the deceased employee unable to bear the harassment of the mother –in-law Shankaramma. Even the applicant was not aware of the first marriage. However, there is no documentary evidence confirming the marriage. The Village sarpanch has also given a declaration stating that the applicant is the wife of the deceased employee and that she is the only legal heir. The family declaration made by the applicant for obtaining passes/PTOs, medical identity card, family photo and the certificates issued by

the Tahsildar do reveal that the applicant is the wife of the deceased employee. The mother of the deceased employee has also not disputed the fact that applicant is the wife of her deceased son. As per serial Circular 73/2014 the applicant is eligible for compassionate appointment. However, as the rights of the applicant are under adjudication by the High Court they could not process the case for compassionate recruitment.

6. Heard both the counsel. Sri M.C. Jacob, learned counsel appeared on behalf of the applicant and Sri T. Sambasiva Rao, learned Advocate for Sri V. Vinod Kumar, learned Standing Counsel represented the respondents. The learned counsel for the applicant has submitted that the Honourable High Court has granted an interim stay only in regard to retiral benefits and not in respect of compassionate appointment. Learned counsel for the respondents mentioned that unless interim order is vacated by the Hon'ble High court, respondents would not be able to process the request.

7(I) The Honourable High Court order reads as under:

“There shall be interim direction to respondents 2 to 4 not to make disbursements of the retiral benefits, until further orders”

As per rules retiral benefits are to be paid to the legal heir of the deceased employee. Similarly, compassionate recruitment would be offered to the dependent legal heir of the deceased employee. The mother in law of the applicant has filed a Writ Petition in the High Court claiming that as a mother she is the legal heir of her deceased son and that she is illiterate. Hence the issue which was brought to the notice of the Honourable High Court is about the claim of a legal heir. Once the question of legal heir is decided, rest of the issues get resolved. Unless the orders of the Honourable High Court are pronounced in the Writ Petition filed, this Tribunal may not be able to process the OA. The

applicant has filed a W.V.M.P No. 3598/2016 in WP No. 22915/2015 praying for vacation of the interim order, on grounds of jurisdiction and rules covering the subject in question. Besides, it is also seen that the mother –in- law of the applicant has not been impleaded as a party to the OA. Without hearing her, it may not be appropriate to adjudicate on the issue. Learned applicant counsel has also submitted that age is not on the side of the mother in law of the applicant to be considered for compassionate appointment. However, this submission does not stand to reason since the fundamental issue being contested is as to who is the legal heir. The respondents in their reply statement have confirmed that the applicant is the legally wedded wife of the deceased employee and that rules favour the applicant. They also stated that they have no objection to consider the case of the applicant for compassionate appointment. Having admitted the contention of the applicant to this extent, it would be fair and proper on the part of the respondents to file their response before the Honourable High Court. However, as per records submitted it appears that the respondents have not submitted their counter in WP No. 22915/2015 before the Honourable High Court. In case, if they have not to this date, they should do so within 30 days from the date of receipt of this order, in the interest of justice. Further, as and when the writ petition is decided by the Honourable High Court, the respondents, as per their submissions in their reply statement, may consider the request of the applicant for compassionate appointment. If the grievance of the applicant still subsists, she is at liberty to approach this Tribunal, if she so advised.

II. With the above directions the OA is disposed of, with no order to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 7th day of February, 2019

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