

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

Original Application No. 021/82/2016

Date of Order: 18.12.2018

Between:

Smt. P. Rukmini Bai, aged 46 years,
W/o. late P. Digamber, Ex. Trackman,
O/o. SSE/P.Way/VKB,
H. No. 4-2-347, Shivram Nagar,
Vikarabad, R.R. District.

...Applicant

And

UOI, Rep. by its

1. The General Manager,
3rd Floor, Rail Nilayam, S.C. Railway,
Secunderabad.
2. The Divisional Railway Manager (P),
Sanchalan Bhavan, S.C. Railway,
Secunderabad.

...Respondents

Counsel for the Applicant ... Mr. G. Pavana Murthy

Counsel for the Respondents ... Mrs. Vijaya Sagi, SC for Railways

CORAM:

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

ORAL ORDER

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

2. The OA is filed for rejecting the request of the applicant for appointment under compassionate grounds.

3. Brief facts of the case are that the husband of the applicant while working as Senior Trackman in the respondent organization was murdered on 10.11.2009 while performing the Watchman duties. The deceased employee has rendered more than 26 years of service without any adverse remark. The applicant has

been granted family pension and other retirement benefits consequent to the demise of the deceased employee. A FIR was lodged with the Vikarabad Police about the murder of the applicant's husband. The case, as informed by the learned counsel for the applicant, is still pending adjudication by the concerned court. The applicant's husband had more than 10 years left over service before he was murdered. Consequent to the sad demise, the applicant has been put to severe mental stress and being illiterate she is finding it difficult financially too. Therefore, she represented on 28.06.2014 for compassionate appointment. As there was no action on behalf of the respondents, the applicant filed OA 198/2015 before this Tribunal which was disposed of directing the respondents to consider her representation and issue a speaking and reasoned order. Accordingly, the respondents issued an order rejecting the claim of the applicant on 30.04.2015. Aggrieved over the same, this OA has been filed.

4. The contentions of the applicant are that she is a poor widow with no moveable or immovable properties. Besides, she is illiterate. As per the Railway Board circular dated 30.04.1979 there is a provision that if an employee dies in harness, his wife/son/daughter should be given compassionate appointment to tide over the financial difficulties and to survive. As per Serial Circular No. 136/1995, dt. 1.12.1995 issued based on the Railway Board Lr. No. E(NG)II/84/RC-1/26 dated 06.10.1995, the respondents have power to consider cases for appointment on compassionate grounds which are more than 20 years old from the date of the death of the employee.

5. The respondents resisted the contentions of the applicant by stating that her request was rejected on grounds that she is illiterate and her age is beyond the prescribed age limit. Besides, she is issue-less and has no liability. The applicant has been paid Rs.3,28,045/- as settlement dues and she is presently

drawing a monthly pension of Rs.10,000/- approximately. In view of the fact that the applicant has neither liability nor any dependents to be looked after, it is assumed that she is not under any extreme hardship on the financial front and therefore, her case need not be considered. The respondents also stated that the Hon'ble Supreme Court has observed in quite a few judgments as under:

“the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis... mere death of an employee in harness does not entitle his family to such source of livelihood....It must be remembered that as against the destitute family of the deceased, there are millions of other families which are equally, if not more destitute.....An appointment on compassionate grounds “as a matter of course” is not justifiable.”

The 2nd respondent has considered her request and issued an order rejecting her request.

6. Heard learned counsel for both sides. They have argued on the lines of the written submissions made by them.

7(A) The case was heard on few occasions. On one of the occasions, learned counsel for the applicant has submitted that he would amend the prayer in the OA seeking for alternative relief of compensation for loss of life of the applicant's husband as he was murdered while performing duty. The MA 721/2018 was accordingly filed which was allowed.

(B) The applicant's husband in the present OA was murdered while on duty. He has more than 10 years left over service. The very fact that her husband was murdered is a traumatic experience to be gone through by anyone. More so, in the context of the applicant being an illiterate woman, she had to approach different people to contest the case in the criminal court. Consequently, it took some time for her to settle down and approach the respondents for appointment on compassionate grounds. One needs to show empathy to this extent as the

applicant has been put to twin disadvantages of losing the breadwinner and forced to fight a legal battle to fix those who murdered her husband with the meagre financial resources she has. The respondents, in fact, have issued a Serial Circular No. 24/1997 which comes to the rescue of the applicant. In the said circular it is clearly stated at para 7, to accommodate illiterate widows of deceased railway employees in posts of Waiting Room Bearers. Further, it is also clarified at para 8 that for the purpose of compassionate appointments, upper age limit may be freely relaxed on the merits of the case. In fact, the power to consider cases for compassionate appointment pending upto 25 years was also delegated to the General Managers of the Zones, vide Serial Circular No.77/2001, dt. 31.05.2011.

(C) Even on an earlier instance, as per the directions of this Tribunal in OA 198/2015 dt. 10.02.2015, the respondents have rejected the request of the applicant for compassionate recruitment on grounds that she is over aged and illiterate. She was also given settlement dues to the tune of Rs.3,28,045/- and is drawing family pension of Rs.10,000/- per month. This order has referred to certain judgments of the Hon'ble Supreme Court cited in paras supra. The grounds stated appear not to be as per rules and law. Age limit can be relaxed as per the Serial Circular No. 24/1997 by the General Manager in case it deserves to be considered in respect of illiterate woman and as per serial circular cited above they can be offered jobs as Waiting Room Bearers.

(E) In *Director of Education Vs. Pushpendra Kumar, AIR 1998 SC 2230, Balbir Kaur Vs. Steel Authority of India, AIR 2000 SC 1596 and in Govind Prakash Verma Vs. LIC, 2005 SCC (L&S) 590*, Hon'ble Supreme Court has held that the factum of payment of terminal benefits cannot be taken into consideration for denying an opportunity for offering appointment on

compassionate grounds. It is also seen that the applicant has no moveable and immovable property. The family pension of nearly Rs.10,000/- per month in the present circumstances may not be adequate enough to live a quality of life which the applicant would have led if her husband were to be alive. The husband has laid down his life while serving the respondent organization. This is a critical point which deserves to be considered with genuine compassion. Being a lone woman with no dependents or anybody to take care of, it is all the more necessary that she has to have financial security. The respondents should not also lose sight of the fact that the deceased employee had 10 more years of service before he was murdered. This Tribunal agrees with the respondents contention in regard to the observations of the Hon'ble Supreme Court, but the present case is different. The applicant is in pathetic situation where she is all alone and has to lead life in the years to come. It is for the respondents to consider taking care of such hapless, illiterate widowed women who can generally be exploited by the society. Once they get support from the respondent organization, they will be able to gain confidence to face life as it should be. As stated by the respondents, it should not be a back door entry for regular employment. However, in this case, it is more of helping a destitute woman who needs support both in regard to financial aspects as well as social status. The Hon'ble Supreme Court did observe that a family in distress and penury need to be considered for compassionate recruitment. The distress is losing the loved one while serving the respondents. With escalating cost of living, the emoluments disbursed nor the pension granted would be adequate enough to live a respectable life. The applicant has also amended the prayer seeking compensation for the death of her husband due to murder while on duty. The prayer of the applicant is to either offer compassionate appointment or at least support her by giving compensation.

The learned counsel for the respondents has mentioned that there is no scope for compensation.

(F) Keeping the prayer of the applicant in view and the rules providing scope to offer compassionate appointment, the respondents are directed to consider the request of the applicant for compassionate recruitment or examine the scope of providing suitable compensation to the applicant by taking it up with the Railway Board, as a special case, on grounds that the applicant's husband was brutally murdered on duty. The respondents are directed to consider taking a decision on one of the above options within 90 days from the date of receipt of this order.

(G) With the above directions, the OA is allowed with no order as to costs.

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

Dated, the 18^h day of November, 2018

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