

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

OA/021/802/2018

**Reserved on: 03.04.2019
Order pronounced on: 04.04.2019**

Between:

1. Surnapu Upendra,
W/o. S. Narayana, Ex. Sr. Trackman,
Aged 52 years, Gummanur,
Beside Pragathi Office,
Mahaboobabad,
Mahaboobabad District.
2. Durga Rani, Widow,
D/o. S. Narayana,
Ex. Sr. Trackman, 32 years,
Gummanur, Beside Pragathi Office,
Mahaboobabad,
Mahaboobabad District.

...Applicants

And

1. Union of India rep. by
The General Manager,
South Central Railway,
Rail Nilayam, 3rd floor,
Secunderabad – 500 025.
2. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad – 500 025.
3. Sr. Divisional Personnel Officer,
Secunderabad Division,
Sanchalan Bhavan,
South Central Railway,
Secunderabad.

...Respondents

Counsel for the Applicants ... Mr. G. Trinadha Rao
Counsel for the Respondents ... Mr. V. Vinod Kumar, SC for Railways

CORAM:

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

ORDER

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

2. The OA is filed for not granting compassionate appointment to the 2nd applicant.
3. Brief facts of the case are that the husband of the 1st applicant while working for the respondent organisation has died in 2009 leaving behind the 1st & the 2nd applicants. The 2nd applicant was married on 27.4.2000 but she got divorced on 17.2.2016 and thereby became wholly dependent on the 1st applicant. On the demise of the bread winner 1st applicant sought compassionate appointment for the 2nd applicant but it was rejected on 4.4.2017 and hence the OA.
4. The contentions of the applicants are that as per Railway Board order 70/2014, the 2nd applicant is eligible for compassionate appointment and therefore rejection of request for compassionate appointment is against rules. The order of rejection was given by the 3rd respondent who is not competent to consider compassionate appointment.
5. Respondents contend that the 2nd applicant was divorced on 17.2.2016 after the death of her father in 2009 and therefore she was not dependent on the deceased employee at the time of his death. As per Railway Board order dated 21.11.2001 a divorced daughter is eligible for compassionate appointment if she is dependent on the deceased employee at the time of his death. As this rule was

not complied with her case was not considered. Respondents cited the Hon'ble Supreme Court judgment in *Shri Umesh Kumar Nagpal* to substantiate their stand. Respondents do contend that compassionate appointment cannot be claimed as a matter of right.

6. Heard both counsel and perused the documents as well material papers submitted.

7. I) It is a fact that 2nd applicant was not dependent on the deceased employee at the time of his death. Hence the respondents are taking cover of Railway Board letter which states that the divorced daughter has to be dependent on the deceased employee at the time of his death, to negate her request. However, this instruction has been superseded by the Railway Board order 70/2014 dt 8.7.2014 where in discretion has been given to the family to nominate any child including divorced daughter. According to this order, 2nd applicant has to be considered for compassionate appointment.

II) Further, respondents have quoted Hon'ble Supreme Court Order in *Shri Umesh Kumar Nagpal v State of Haryana* claiming that compassionate appointment has to be provided for tiding over the sudden crisis on the death of the bread winner. Employee died in 2009 and seeking compassionate appointment in 2017 does not fit into the scheme of things. However, in the same judgment it was mentioned that the financial condition of the family has to be examined. There is no whisper to this effect in the reply statement. Unless the financial condition is examined by deputing a welfare officer the real picture

would not emerge. The 2nd applicant has to don the role of a bread winner to take care of the 1st applicant in the years to come.

III) It is true that compassionate appointment is not a matter of right but it should not be forgotten that the 2nd applicant has a right to be considered. The 2nd applicant was divorced in 2017 and hence has become dependent on the 1st applicant which indeed alters the financial condition of the family. It is this condition which has to be examined. Such an exercise has not been done. Therefore, the observation of Hon'ble Supreme Court in the case cited by the respondents has not been followed. Identical cases were allowed by this Tribunal in OAs 494/2018 and 1223/2014. Hence the case is fully covered.

IV) Therefore, from the above it is evident that the action of the respondents is against rules, arbitrary and not as per the legal principle laid down by the Hon'ble Apex Court referred to above. The impugned order dt 4.4.2017 is thus quashed. Consequently, the O.A. is allowed and respondents are directed to consider as under:

- i) To depute a welfare inspector to make a fair assessment of the financial condition of the family by taking relevant factors into consideration and thereafter based on the said report consider the request of the 2nd applicant for compassionate appointment as per extant rules in vogue.
- ii) Time allowed to implement the order is 3 months from the date of receipt of this order.
- iii) No order as to costs.

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

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