

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

**Original Application No.100/2017**

**Date of C.A.V. : 20.07.2018**

**Date of Order : 30.10.2018**

**Between :**

1. Y.Ganga Bhavani, W/o Late Y.Balaji,  
aged 52 years, R/o D.No.8-8-17,  
Umar Alisha Street, Wynchpet,  
Vijayawada – 520 001.

2. Y.Narendra Kumar,  
S/o late Y.Balaji, aged 29 years,  
R/o D.No.8-8-17,  
Umar Alisha Street, Wynchpet,  
Vijayawada – 520 001.

... Applicants

**And**

1. Union of India, rep. by  
The General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad.

2. The Chief Personnel Officer,  
South Central Railway,  
Rail Nilayam, Secunderabad.

3. The Divisional Railway Manager,  
South Central Railway,  
Vijayawada Division,  
Vijayawada.

4. The Chief Medical Director,  
Rail Nilayam, South Central Railway,  
Secunderabad.

... Respondents

Counsel for the Applicant	...	Mr. K.R.K.V.Prasad, Advocate
Counsel for the Respondents	...	Mr. M.Venkateswarlu, S.C.for Rlys.

**CORAM:**

**Hon'ble Mr.Justice R.Kantha Rao      ...      Member (Judl.)**

**ORDER**

**{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }**

The first applicant is the wife and the second applicant is the son of the deceased employee Sri Y.Balaji who belongs to SC community. He worked as Khalasi Helper in Carriage & Wagon Depot of Vijayawada in the office of Senior Section Engineer (C&W), South Central Railway and died while in service on 13.02.2007 in harness. On the application submitted by the first applicant to provide appointment to the second applicant on compassionate grounds, the second applicant was temporarily appointed as Helper-II (Khalasi) in PB-I Rs.5200-20200 with Grade Pay Rs.1800 (RP) in Electrical (TRD) Department vide letter dated 25.05.2011. After the said appointment, he was found medically unfit for the post of Helper - II due to hearing defect. The second applicant was advised by the department vide letter dated 05.07.2013 to produce disability certificate so as to consider his case for appointment on compassionate grounds against PH quota. The second applicant submitted a medical certificate for Deaf & Dumb dated 20.09.2013 with 60% disability to the effect that he was partially deaf in both ears and suffering from hearing handicapped disability and his case was considered for re-medical examination. However, the department again issued proceedings stating that the applicant cannot be considered in PH quota and was advised

surgery of right ear for the purpose of reviewing his case after surgery. Accordingly the second applicant underwent surgery and he produced the medical certificate to the effect that the hearing of the applicant is clinically within the normal limits and he is fit for any job which requires good hearing and once again applied for re-medical examination. A Medical Board was constituted for the said purpose. The Medical Board however found that the applicant was not fit to be appointed on compassionate grounds under PH / HH quota. The second applicant again submitted a representation dated 22.05.2015 to consider his case for the post of Helper in TRD department on compassionate grounds, but his case was not considered as the Medical Board already met on 19.01.2015 and the decision was approved by the Chief Medical Director that he was not fit for the post of Helper in the TRD Department.

2. It is under the above circumstances the applicants filed the present OA to declare the action of the respondents in not providing compassionate appointment to the applicant in any of the categories as illegal, arbitrary, to set aside the letter dated 20.02.2015 and to issue a direction to provide compassionate appointment to the second applicant on compassionate grounds in general quota with reference to the medical category in which he would fit and provide him all consequential benefits.

3. In their reply statement the respondents inter alia contended that the case of the second applicant for providing compassionate appointment was

examined by the department in all categories including A-2 and below medical classifications and he was found unfit for all categories as per the medical standards of the department. Therefore his case was rejected. According to the respondents the second applicant could not get through the written examination conducted for Group-C post and he was declared unfit for all categories under general quota at both the Divisional Level and Head Quarters Level and accordingly he was advised to submit an appeal to the Chief Medical Director, Secunderabad for re-medical examination. Further his case was also examined in re-medical examination conducted by the Chief Medical Director, Secunderabad and he was found unfit for all categories. As such their version is that the Railway administration extended all opportunities as per Rules under compassionate grounds, but the applicant was found medically unfit for all classes as such his claim was rejected. On these grounds they sought to dismiss the OA as devoid of merits.

4. I have heard Mr.K.R.K.V.Prasad, learned counsel for the applicants and Mr.M.Venkateswarlu, learned standing counsel for the respondents.

5. It is submitted by the learned counsel appearing for the applicants that after surgery of the right ear the hearing capacity of the applicant was improved, but the department rejected his case under Physically Handicapped

quota of the hearing impaired. It is further submitted that the respondents taking hyper technical view of the matter, rejected the candidature of the applicant in a mechanical way without considering his case in a post even in lower medical category. Therefore, the learned counsel seeks a direction to the respondents to provide the second applicant appointment on compassionate grounds in any suitable post. On the other hand it is contended by the learned standing counsel appearing for the respondents that the applicant was subjected to medical examination, on a re-medical examination by the medical authorities, he was ultimately found unfit for any category and therefore his case could not be reconsidered.

6. From the medical record which is filed as material papers in the OA by the applicants the disability of the second applicant is only partial hearing impairment. For that reason he was found unfit for the post of Helper-II and on the advise of the department only he underwent surgery of the right ear. He asserts in the OA that after surgery though his hearing capacity was improved, he was not considered by the authorities either under general quota or under PH quota. He also filed a medical certificate issued by the medical expert which indicates that the applicant's hearing capacity has been improved and he is able to discharge the normal duties.

7. I am not in acceptance with the stand taken by the department that the second applicant is not fit for any post. With the hearing impairment which the applicant has, can discharge the duties of a Class-IV employee. Except stating that as per the medical opinion the applicant was found unfit for all categories,

the respondents did not specify as to on what grounds he was found unfit even to discharge the duties of a Class-IV employee. I am not convinced with the stand taken by the respondents. This is a fit case where a direction is required to be issued to the respondents to reconsider the case of the applicant for compassionate appointment.

8. Consequently the order dated 20.02.2015 is set aside. The respondents are directed to reconsider the case of the applicant for compassionate appointment in any suitable post either in general or PH category. The respondents are directed to complete the process of reconsideration of the case of the applicant within a period of eight weeks and pass appropriate orders by furnishing cogent reasons.

9. Accordingly the OA is allowed to the extent indicated above. There shall be no order as to costs.

**(JUSTICE R.KANTHA RAO)**  
**MEMBER (JUDL.)**

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