

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00578/2017

Date of CAV : 09-10-2018

Date of Order : 30-10-2018

Between :

1. B. Govindamma W/o late B. Lakshmanna,
Aged 64 years, R/o D.No.163,
Valmiki Naar, Kasapuram Road,
Near Satyanarayanapeta Road,
Guntakal, Anantpur District-515 801 A.P.

2. B.Nagaraju S/o late B.Lakshmanna,
Aged 38 years, R/o D.No.163,
Valmiki Naar, Kasapuram Road,
Near Satyanarayanapeta Road,
Guntakal, Anantpur District-515 801 A.P.

....Applicants

AND

1. Union of India represented 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,
Guntakal Division, Guntakal.

4. The Senior Divisional Personnel Officer,
South Central Railway,
Guntakal Division, Guntakal.

...Respondents

Counsel for the Applicant: Mr.K.R.K.V.Prasad

Counsel for the Respondents : Mrs.Vijaya Sagi, SC for Rlys

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the A.T. Act, 1985, to call for the records pertaining to letter No. G/P-721/AC/SKV/95/09, dated 22.07.2009 and letter No.SCR/P-GTL/122/CGA/SKV/95/09, dated 26.06.2014 vis-a-vis the inaction on receipt of letter No.G.157/Genl/2014/2014, dated 07.11.2014 and declare the inaction of the respondents in the matter of review of the case of the 2nd applicant for providing appointment on compassionate ground, as illegal, arbitrary, unjust, discriminatory and set aside and quash the said two letters with a direction to review the case of the applicants and provide appointment on compassionate grounds in favour of the 2nd applicant forthwith and grant all consequential benefits and pass such other order or orders as deemed fit and proper in the facts and circumstances of the case and in the interest of justice.

2. The brief facts of the case are that, the 1st applicant's husband viz., B. Lakshmann who worked as Luggage Porter in Commercial department of Guntakal division of S. C. Railway died on 18.09.2007 while in service. The 1st applicant applied for compassionate appointment in favour of her third son i.e., the 2nd applicant and the same was rejected initially on 22.07.2009 and again on 26.06.2014. However, since the General Manager of the S.C. Railway desired that the Divisional Railway Managers should review all compassionate ground appointment cases which have been rejected

afresh, it is incumbent on the part of the 3rd respondent to take-up fresh review of the case of the applicants vis-a-vis the current circumstances of the family. In spite of the applicants pursuing their case, no such review was taken up.

3. It is further stated that the first letter conveying that the competent authority has regretted to provide compassionate appointment to the 2nd applicant, inter alia mentioning certain untenable grounds vide letter dated 22.07.2009, the applicants pursued their case further and again another letter was issued without mentioning any reasons of the case on 26.06.2014. However, in view of a decision taken by the General Manager of the S.C. Railway that the Divisional Railway Managers working under the control of the General Manager should review all cases of compassionate appointment which have been rejected afresh, the applicants are entitled for a fresh review of their case. On receipt of the General Manager's decision conveyed vide letter dated 07.11.2014, certain other cases which were rejected earlier were reviewed. The applicants were of the fond hope that their case also would be reviewed for a favourable decision. Hence this application.

4. Respondents have filed reply affidavit stating that the deceased Railway employee while working as Luggage Porter at Station Manager/Office/Raichur of Guntakal Division died on 18.09.2007, leaving behind wife and 3 sons and 1 daughter.

THE FAMILY COMPOSITION OF THE EX.EMPLOYEE

S. No.	Name	Relationshipship	DOB	Marital status	Employment
1.	Govindamma	wife	02.04.55	Widow	Family Pensioner
2.	B.Ranganayakulu	son	16.06.74	married	Daily waged labour (6 th class)
3.	B.Chandrasekhar	son	15.8.76	married	Auto Driver (7 th class)
4.	B. Nagaraju	son	11.8.79	married	Unemployed (9 th class)
5.	Adilakshmi	daughter	18.10.81	married	Housewife (7 th class)

5. The Respondents further state that Smt. Govindamma, wife of the deceased employee submitted a request seeking appointment to her third son Sri B. Nagaraju on 24.3.2009, passed IX lass, unemployed and married. The case was examined by the Divisional Railway Manager, the Competent Authority to consider the appointment on compassionate grounds and decided the case and passed orders as under :

“I do not Consider this case fit for CG appointment because of the following :

- (i) All the 03 sons including candidate and 01 daughter are married;
 - (ii) Widow has been paid settlement dues and also getting family Pension. She has her own house and five acres of dry land.”
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- (i) The application for CG appointment is a belated application submitted after 02 years after the death of the ex-employee (date of death 18.09.2007).
- (ii) The 2nd applicant and candidate for whom Compassionate grounds appointment claimed, Shri B. Nagaraaju is not having minimum qualification f VIII pass at the time of event.
- (iii) Passed IX class (14.06.2008) after the death of his father

(18.09.2007) for the purpose of claiming CG appointment;

..... The financial condition of the family of the deceased employee is also kept in view while considering such requests.

The family was paid the settlement dues and the family could survive all the long time till the candidate for appointment on compassionate grounds has completed his studies and till their first application dt.24.03.2009.

(iv) The candidate was married and cannot be termed as dependent on father;

(v) All the other children are also married and living separately as individual families;

(vi) There are no other children to look after or to take care as he has given declaration only to look after his mother and not other family members.”

6. The Respondents submit that, the Hon’ble Apex Court in Umesh Kumar Nagpal Vs. State of Haryana & Others [JT 1994 (3) SC 525] has held that, “the Government or the public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.”

7. The Respondents further submit that, in the instant case, the family of the deceased employee had no financial crisis on the death of the government employee as the petitioner getting Family pension on the demise of the government employee. Hence, they are not in dire need of immediate financial assistance. Thus, there is no ground for appointment on compassionate ground on financial crisis. With these submissions, the

Respondents pray for dismissal of the O.A.

8. We have heard Mr.KRKV Prasad, learned counsel for the applicants and Mrs. Vijaya Sagi, learned Standing Counsel for Respondents, perused the documents placed on record.

9. It was submitted by the learned counsel for the applicant that the children of deceased employee being married, the said aspect has been taken as one of the ground for rejection of the application for appointment on compassionate ground. The Serial Circular No.73/2014 dated 22.07.2017 (vide Annexure A-5, page-14 to OA) as issued by the Respondents clearly shows that there will be no distinction between married or unmarried , widow, son or daughter but the but the only point to be remembered is whether the child will be bread winner of the family or not. In view of the categorical averment made by the 1st applicant that 2nd applicant is the only bread winner of the family and that the entire family is depending on the earnings of the 2nd applicant for their livelihood, the Respondents could not have rejected the application of the applicant on the ground he is married. Besides that, the authorities themselves have failed, in the facts and circumstances of the this case to once again deputed the Welfare Inspector and the later has submitted a fresh report on 07.11.2014. The said report of the Respondents states that 'General Manager desires that DRMs should review all cases which have been rejected, afresh, keeping in view the current circumstances of the family, by deputing a Welfare Inspector. He also desires that all deserving cases should be reconsidered'. But while

considering the application of the applicant, there has been no objective review of the matter has been done and the matter has been mechanically disposed of. Although the applicant had passed SSC examination, it has been mentioned that he has passed 9th Class examination. The Respondents have not taken any decision on the representation dated 28.03.2016 filed by the applicant.

10. The learned Standing Counsel for the Respondents submit that the family of the deceased employee has received family pension, medical and terminal benefits. Obviously, the meagre terminal benefits should not have been taken into consideration for refusing the appointment on compassionate grounds.

11. In the above circumstances, this Tribunal is of the opinion that, the matter requires review of the General Manager in an objective manner. On the basis of the fresh report dt.07-11-2014 of the Welfare Inspector Accordingly the Respondents are directed to review the matter of the applicant within a period of three months from the date of receipt of a copy of this order. Consequently the impugned orders dated No. G/P-721/AC/SKV/95/09, dated 22.07.2009, letter No. SCR/P-GTL/122/CGA/SKV/95/09, dated 26.06.2014 vis-a-vis the inaction on receipt of letter No.G.157/Genl/2014, dated 07.11.2014 are set aside and the Respondent No.1 is directed to reconsider the case of the applicant and pass a speaking order within a period of three months from the date of receipt of a copy of this order.

12. In view of the forgoing observations, OA allowed accordingly. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 30th October, 2018.

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