

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

Dated the Thursday 21st day of February Two Thousand And Nineteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1417/2017

1. A. Chinnaponnu,
W/o. Late G. Adhimoolam,
No.3/110, Subbaiah House,
Narasingapuram,
A. Vellodu,
Dindigul District;
2. A. Venkateswari,
D/o. Late G. Adhimoolam,
No.3/110, Subbaiah House,
Narasingapuram,
A. Vellodu,
Dindigul District.

....Applicants

(By Advocate: M/s. R. Jayaprakash)

Versus

1. Union of India Rep. by its
Secretary, Ministry of Railways,
Government of India,
543, Rail Board,
Raisina Road,
New Delhi- 110 001;
2. The General Manager,
Head Quarters,
Southern Railway,
Park Town,
Chennai- 600 003;
3. The Chief Personnel Officer,
Head Quarters,
Southern Railway,
Park Town,
Chennai- 600 003;

4. The Senior Divisional Personnel Officer,
Madurai Division,
Southern Railway,
Madurai;
5. The Divisional Personnel Officer,
Madurai Division,
Confidential Section,
Southern Railway,
Madurai.

.....Respondents

(By Advocate: Dr. D. Simon)

ORAL ORDER

[Pronounced by Hon'ble Mr. R. Ramanujam, Member (A)]

The applicants through proxy counsel and Counsel for the respondents present.

2. Applicants have filed this OA seeking the following relief:-

"to call for the records pertaining to the proceedings of the 3rd Respondent in No. PB/CS/30/Court Case/ Vol.I dated 17.11.2016 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to provide employment to the 2nd applicant on compassionate ground in terms of mandatory provisions."

3. The applicants are aggrieved by Annexure A/12 impugned order dated 17.11.2016 by which their request for compassionate appointment for the second applicant, a married daughter of the first applicant had been turned down. The impugned order had been passed in pursuance of the order of this Tribunal in OA. 905/2015 dated 27.07.2016 wherein a direction was given to the respondents to reconsider the candidature of the second applicant for compassionate appointment in the light of the decision of the Hon'ble Apex Court in the case cited therein.

4. On perusal, it is seen that this Tribunal had referred to the decision of the Hon'ble Apex Court in the case of Canara Bank and Anr. Vs. M. Mahesh Kumar & Ors in CA Nos 260, 266 & 267/2008; Balbir Kaur & Anr. Vs. Steel Authority of India Ltd. & Ors (2000) 6 SCC 493 and the order of the Hon'ble Madras High Court in the case of Easwari Vs. The Secretary, Sports Development Authority of TN, Chennai in W.P. No. 23243 of 2015 dated 31.07.2015. The contention of the applicants is that the

respondents have continued to discriminate against the second applicant on the ground of marriage notwithstanding the aforesaid judgments. Merely because there were no other wards to be looked after in the family of the deceased employee, the living dependent of the deceased employee could not be left to fend for herself. The 1st applicant was undisputedly a surviving dependent of the deceased employee and the second applicant is in the best position to be bread winner of the surviving family. The respondents had failed to consider the financial condition of the family and rejected her claim merely on the basis that the first applicant was in receipt of a family pension.

5. The respondents have filed a reply contesting the claim of the applicants. It is stated that the respondents had never rejected the claim of the applicant on the ground of marriage of the second applicant. The first applicant had a married son and two other married daughters also. She is in receipt of a family pension of Rs. 16,730/- + Relief payable up to Rs. 7.7.2020. She would be paid ordinary family pension of Rs. 10038+ Relief thereafter. The widow had no other dependant minor children to take care of. As such, the question of a married daughter acting as breadwinner of the bereaved family does not arise.

6. The claim of the applicants was rejected not only on the ground of family pension and terminal benefits given to the first applicant but also on the ground that there was no other dependant to be taken care of after the death of the deceased employee. This was in accordance with the policy of the Railway Board contained in its letter No. E(NG)II/2015/RC-1/4 dated 15.04.2015.

7. Reliance is placed on the observations of the Hon'ble Supreme Court in Chief Commissioner, Central Excise & Customs, Lucknow & Ors. vs. Prabhat Singh in CA No. 8635 of 2012 decided on 30.11.2012 had held that

“Courts and Tribunal should not fall prey to any sympathy syndrome, so as to issue direction for compassionate appointments, without reference to prescribed norms, Courts are not supposed to carry Santa Claus’s big bag on Christmas eve, to disburse the compassionate appointment, to all those who seek a Court’s intervention. Courts and Tribunals must understand that every such act of sympathy, compassion and discretion, wherein directions are issued for appointment on compassionate ground, could deprive a really needy family requiring financial support, and thereby push into penury a truly indigent destitute and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion.”

Accordingly it is contended that inasmuch as there was no indispensable or dire need of the family, like marriage of a daughter or education of any minor child and the family of the deceased employee was not in an indigent condition as the 2nd applicant’s mother herein is in receipt of family pension, the applicants were not entitled for any relief as prayed for in the O.A., it is contended.

8. I have considered the facts of the case and the pleadings. It is not in dispute that the 1st applicant is in receipt of monthly pension of Rs. 16730/- + Relief payable upto Rs. 7.7.2020 and a family pension of Rs. 10038/- + Relief thereafter. The first applicant’s husband died on 7.7.2010 and considerable time has elapsed since during which the family

has survived. It is also not in dispute that the first applicant had a son who was married and living separately and there were no minor children to be looked after. The only survivor in the deceased employee's family is the first applicant who is in receipt of a decent family pension. The second applicant's allegation is that she was discriminated against on the ground of marriage is not correct. The point made by the respondents is that she is not a dependent and the surviving family is not in requirement of any additional support by way of compassionate appointment.

9. In the above circumstances, I am of the view that no case has been made out for support to the lone surviving of the deceased employee's family by offering employment to her married daughter. The OA is misconceived and is accordingly dismissed. No costs.

(R. RAMANUJAM)
MEMBER (A)

Asvs.

21.2.2019