

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.487/2017

Dated Tuesday, the 26th day of February, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

A. Jacquilin

No. 73/37, Chidambarathanpatti

Sevalur Village Manapparai Taluk

Trichy District.

... Applicant

By Advocate M/s R. Jayaprakash

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 Senior Regional Manager

Headquarters Southern Railway

Park Town, Chennai – 3.

3. The Senior Divisional Personnel Officer

Personnel Branch Southern Railway, Madurai.

4. The General Manager

The Southern Railway

Chennai – Thiruttani

Renigunta Highway

NGO Annexe, George Town

Chennai – 600 003.

... Respondents.

By Advocate Mr. P. Srinivasan

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

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“To call for the records pertaining to the proceedings of the 3rd respondent in No.U/P353/OA 281/2016 dated 07.09.2016 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to provide employment to the applicant on compassionate ground by considering her representation dated 10.06.2013, 02.09.2014, 09.01.2015 and 07.09.2016;

To pass such further or other orders as this court deem fit and proper and render justice .”

2. It is submitted that the applicant is a divorced daughter of one late S.Amulraj who was appointed in the respondent department in the year 1980 and died while working as Senior Trackman on 06.05.2011. The applicant's father was survived by her mother, her sister, her grand mother and herself as legal heirs. The applicant's sister was married and residing separately with her husband. The applicant herself was married in the year 2003 with one T.Durairaj and had two daughters by him. The applicant was, however, deserted by her husband in the year 2007 following which she was residing with her parents since then.

3. In the year 2010, the applicant's husband filed for divorce which was granted on 27.02.2013. The applicant's request for compassionate appointment had not been acceded to and therefore the applicant approached this Tribunal in OA 1218/2015. The Tribunal by an order dated 01.09.2015 directed the respondents to consider her case within a

period of eight weeks. The impugned order dated 18.11.2015 was passed in pursuance thereof rejecting the claim of the applicant.

4. The applicant filed OA 281/2015 challenging the aforesaid order and the Tribunal by an order dated 02.06.2016 directed the respondents to consider her case as per the then existing scheme for compassionate appointment taking into account the date of death of the father of the applicant on 06.05.2011. Pursuant to the order, the third respondent issued a notice dated 05.08.2016 calling upon the applicant to produce the 'maintenance' order. The applicant sent a reply on 07.09.2016 along with the order passed in MC No.44/2010 and order passed in MC 42/2012. However, the respondents rejected the claim of the applicant by impugned order dated 07.09.2016. Aggrieved by the rejection, the applicant is before this Tribunal in the third round of litigation.

5. Learned counsel for the applicant would submit that the applicant had been divorced and was living with her parents. The divorce proceedings had been initiated by her husband before the death of her father. As the applicant's family was in requirement of support, the applicant's claim for compassionate appointment was justified.

6. Learned counsel for the respondents, would, however, submit that in order to assess the financial condition and the extent of the dependency, the applicant was requested to provide information about the amount of maintenance being received by her from her ex-husband. However, the applicant had not chosen to disclose the same. As such the

claim of the applicant to be a dependent on her father on the date of death on 06.05.2011 had not been established. The applicant had not been included in the family composition declared by her father when he was in service and, therefore, she could not be considered a dependent.

6. I have considered the pleadings and the rival submissions. It appears that the divorce sought by the applicant's husband had been granted in terms of a compromise memo filed before the competent court. The decree and order issued by the court clearly states that the compromise memo filed by the petitioner and respondent would form a part of the decree. The order of the Judicial Magistrate, Manapparai in MC 42/2012 dated 02.08.2013 is seen attached as Annexure A-10 in the OA from which it appears that the applicant's husband had been directed to pay a sum of Rs.1000 to her and Rs.2000 each to her two daughters which also included the education expenses. Totally a sum of Rs.5000 was directed to be paid to the first petitioner, i.e., the applicant herein.

7. The respondents have acknowledged the above information in para 5 of their reply. It is also stated that the applicant's mother was in receipt of a pension of Rs.5830 + Dearness Relief as per the 6th CPC scales and the enhanced rate of family pension would be available to her till 06.05.2021. Reference is made to RBE 224/2001 dated 21.11.2001 wherein it was stated that in case of divorced/widowed daughters, she should have been wholly dependent on the ex-employee at the time of his/her death/medical invalidation.

8. After careful examination of the matter, I am of the view that although the applicant is in receipt of a maintenance of Rs.5000, Rs.4000 out of this is meant for her two daughters and she herself has been granted only Rs.1000. With a mere amount of Rs.1000 from an estranged husband, it is difficult to agree that the applicant was not wholly dependent on her late father. More so, when the divorce has been ordered only from 2013 while the applicant's father had died in 2011. Accordingly, the impugned order dated 07.09.2016 is quashed and set aside. The respondents are directed to assess the financial condition of the family of the late employee comprising of the applicant's mother and herself afresh, consider the matter objectively in accordance with the scheme for compassionate appointment and pass a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order.

7. OA is disposed of as above. No costs.

(R.RAMANUJAM)
MEMBER (A)

26.02.2019

M.T.