

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

OA/310/00333/2018

Dated Monday the 17th day of December, Two Thousand Eighteen

PRESENT

Hon'ble Mr. R.Ramanujam, Member(A)

G.Kumudha,
W/o (Late) R.Gajendran, No.173,
Kalaignar Street, Tirur Village & Post,
Sevvapet Road,
Thiruvallur District 602 025. .. Applicant

By Advocate M/s K.Manickaraj

Vs.

1. The Union of India
Rep., by The General Manager,
Southern Railway, Park Town,
Chennai 600 003.
2.The Chief Personnel Officer,
Southern Railway, Park Town,
Chennai 600 003.
3.The Senior Divisional Personnel Officer,
Chennai Division, Southern Railway,
Park Town, Chennai 600 003. .. Respondents

By Advocate Mr.K.Vijayaragavan

(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:

"(i)To call for the records pertains to the impugned order No.PB/CS/30.MAS/Misc/2017 dated 11.08.2017 and also the records of the cases cited at paras 4.10 and 4.11 and quash the same as ultra virus and against the established rules and law and against their decision on the similar cases taken by the respondents and direct the respondents to consider the request of the applicant and offer appointment in favour of her married son Shri G.Raman who is the bread winner of the family and wholly depending on the applicant and other consequential benefits.

(ii)Such other appropriate orders as deemed fit by this Hon'ble Tribunal to avoid further delay and hardship and thus render justice."

2. The grievance of the applicant is that the applicant's request for compassionate appointment for her married son by representation dated 11.07.2017 had been turned down by Annexure A-7 impugned order dated 11.08.2017 on the ground that the applicant's husband died only ten days before his normal date of superannuation and the applicant had received full settlement of dues. It was also stated that, she was in receipt of a family pension. The applicant's son and daughter were both married and settled during the life time of her husband and there were no other dependents left to take care of by the applicant.

3. Learned counsel for the applicant would submit that the mere fact that the applicant's husband died 10 days before the date of superannuation did not disentitle the applicant to the benefit of compassionate appointment as there was no such provision in the

scheme of compassionate appointment. The fact of marriage of the applicant's son and daughter could not also be held against them if they could be a bread winner for the family notwithstanding such marriage. The settlement dues and family pension are not to be taken into account for the purpose of considering compassionate appointment as per law laid down by the Hon'ble Apex Court. It is not clear how the respondents arrived at the conclusion that the applicant's son would not be a bread winner for her family and how a mere absence of another dependent child would disqualify her for compassionate appointment.

4. Learned counsel for the applicant would further argue that the applicant had cited specific instances of persons who had been given compassionate appointment in spite of death occurring very close to the date of superannuation in Paras 4.10 & 4.11 of the OA. The respondents have not contested the facts in their reply.

5. Learned counsel for the respondents would submit that it is not in dispute that the applicant's husband died only 10 days before the date of superannuation and there were no dependents to be taken care of. The applicant was paid settlement dues of Rs.13.47 lakhs and is in receipt of monthly family pension of Rs.17353 which is adequate to take care of herself. Accordingly the OA is devoid of merits and liable to be dismissed, it is contended.

6. I have considered the facts of the case. While *prima facie* it does

appear that the family is not in distress, such conclusion must be arrived at through an objective assessment of the assets, liabilities and income of the family. Further, it is also not in dispute that the applicant had cited specific instances of persons being granted compassionate appointment under allegedly similar circumstances in Paras 4.10 & 4.11 which do not appear to have been contested in the reply.

7. It is not clear if a system is in place for an objective evaluation of the financial condition of the family through award of points under various criteria that are adopted to measure the financial distress of the family. No report of a Welfare Inspector or any such document has been referred to either in the impugned order or the reply.

8. In the above circumstances, I am of the view that the impugned order is liable to be set aside with a direction to the respondents to consider the matter objectively, keeping in view also the precedents cited by the applicant and pass a fresh, reasoned and speaking order in accordance with law and the standing instructions of the Railway Board in this regard within a period of two months from the date of receipt of a copy of this order.

9. OA disposed of with the above direction. No costs.

(R.RAMANUJAM)
MEMBER (A)
17.12.2018

M.T.