

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01125/2017

Dated Thursday the 10th day of January Two Thousand Nineteen

CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)

G.Sarojini,
No. 2/96, Railway Station Road,
Tmamaraiikkulam Post,
Pollachi Taluk,
Coimbatore 642109.

....Applicant

By Advocate M/s. Ratio Legis

Vs

1.Union of India rep by,
The General Manager,
Park Town, Chennai 600003.

2.The Divisional Personnel Officer,
Southern Railway/Madurai Division,
Madurai 625010.Respondents

By Advocate Ms. R. Sathyabama

ORAL ORDER**(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))**

Heard. The applicant has filed this OA seeking the following relief :

"To call for the records related to the impugned order No. U/Z.735/1/66/15 dated 17/27.04.2017 made by the 2nd respondent and to quash the same and further to direct the respondents to comply with the request for compassionate ground appointment to her daughter named G. Krishna Chitra in terms of the mandatorey provisions and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice."

2. It is submitted that the applicant was aggrieved by the impugned Annexure A2 order dt. 17/27.04.2017 rejecting her request for compassionate appointment to her married daughter through a speaking order passed in pursuance of the directions of this Tribunal in OA 505/2016 which was disposed of by an order dt. 19.04.2016 directing the respondent authority to consider compassionate appointment in the light of the judgment of the Hon'ble Allahabad High Court cited therein. It is contended that the respondents had rejected the applicant's claim essentially on the ground that her daughter was married for more than 10 years at the time of death of her father and, therefore, was not a dependent. It is alleged that the income of the husband of the married daughter was inadequate to sustain her family and, therefore, she could continue to be regarded as a dependent of the deceased employee at the time of his death.

3. It is further contended that even if both the applicant's daughter as well as her son were married, the residual family of the deceased employee now comprised of the applicant herself who is earning a meagre family pension of approximately Rs. 12,000/- per month which is not sufficient for her to maintain

herself. It is the prerogative of the applicant to nominate a breadwinner of the family and the respondents had no authority to interfere with her decision. When the applicant had nominated the married daughter as a breadwinner, it is not for the General Manager to say that the applicant's daughter could not be a breadwinner merely because she was stationed at Bangalore. Clearly, once employment is offered she would work in the station to which she is posted and the applicant would live with her and, therefore, compassionate appointment could not be denied to the applicant on this ground.

4. As for delay in seeking compassionate appointment after the death of the employee, learned counsel would rely on the relevant Railway Board Circulars including RBE No. 3/2009 dt. 06.01.2009 wherein it is clearly provided that powers have been delegated to DRMs/CWMS/HoDs to consider compassionate appointment in favour of widow/widower or any ward of her/his choice in respect of cases up to 20 years old from the date of death of the Railway employee.

5. Learned counsel for the respondents would, however, contest the claim of the applicant stating that the request for compassionate appointment had neither been rejected on the ground of marriage of the daughter nor merely because the case was old. Every case is examined on merit and a compassionate ground appointment is only considered when the family is found to be in distress and in need of support. In the instant case, both the son and daughter of the applicant were married and independent. The applicant was the only member of the residual family who was dependent on the deceased employee. She is receiving a

reasonable pension to maintain herself. She had also been paid terminal dues of Rs. 10 lakhs following the death of the employee. The matter of compassionate appointment is not a hereditary right but considered to provide immediate succour for the distressed family. The applicant had not sought compassionate appointment for over three years after the death of the employee which was sufficient evidence that the family was not in distress. Accordingly, the OA is devoid of merits and is liable to be dismissed, it is contended.

6. I have considered the facts of the case. The claim of the applicant for compassionate appointment for her married daughter has been rejected through a speaking order on several grounds. Although it would appear that one of the grounds viz., that the applicant's daughter could not be a breadwinner for the applicant may not have a sound legal basis in as much as it is not for the official respondents to question the decision of the applicant to nominate a married daughter to be the breadwinner of the family, especially when it is permitted by rules, it is also seen that the impugned order goes into the issue of the financial condition of the family after a due inquiry. It is stated that the applicant's daughter is living separately in Bangalore with her husband and is dependent on him and not her father. The applicant's son is also married and employed and he had an independent source of income. The applicant is being paid a monthly pension in addition to the terminal dues which was paid at the time of the death of the employee. I also find force in the contention that since the applicant did not seek any compassionate appointment for three years following the death of the

Railway employee, the family could not be regarded as living in indigent circumstances.

7. Reliance had been placed on RBE 3/2009 which allowed the competent authority to consider the case of compassionate appointment as old as 20 years. However, it is also seen from para 3 of the circular that the competent authority should satisfy himself/herself on the basis of a balanced and objective assessment of the financial condition of the family that the grounds in each case are justified, having regard to the number of assets and liabilities left by the Railway employee, income of any member of his family as also his liability, whether the earning member is residing with the family of the deceased employee and whether he provides any support to other members of the family. Clearly, as the competent authority has to satisfy himself that the compassionate appointment is justified in the circumstances, it is not possible for this Tribunal to substitute its own judgment in place of the competent authority and arrive at an independent conclusion. In this case, it appears from the impugned order that inquiries were conducted twice neither of which revealed that the family of the deceased employee was in financial distress. I am, therefore, of the view that this is not a fit case for interference by this Tribunal.

8. OA is dismissed. No costs.

(R. Ramanujam)
Member(A)
10.01.2019

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