

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**OA/310/01590/2016**

**Dated Monday the 13<sup>th</sup> day of August Two Thousand Eighteen**

**PRESENT**

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

Gayathri Sathya,  
D/o. S. Sathya Jayendran,  
No. 9, 4<sup>th</sup> Cross Street,  
Rail Vihar, IRWO, K.K. Nagar,  
Trichy 21.

....Applicant

By Advocate M/s. L. Chandrakumar

Vs

1.Union of India rep by the General Manager,  
Southern Railway,  
Park Town, Chennai 600003.

2.The Divisional Personnel Officer,  
Divisional Office, Southern Railway,  
Trichy.

....Respondents

By Advocate Ms. R. Sathyabama

**ORAL 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 relief :

"To call for records No. 7/PC-85/4200 dated 30.06.2016 to quash the same and to consequential direct the respondents to consider the claim of the applicant for appointment on compassionate ground to any eligible post forthwith thereto and to pass further or other order as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice. "

2. It is submitted that the applicant's father who joined the services of the Railways in the year 1987 was found medically unfit in all classes in Indian Railways on 16.04.2015 and was terminated on the same date. On 06.05.2015, a representation was addressed to consider the appointment on compassionate grounds of his married daughter ie., the applicant. It is alleged that there was no one else to take care of the medically decategorised Railway servant, the applicant being his sole legal heir and married to a person who had no regular source of income and, therefore, living in indigent circumstances along with her father. However, without going into the merits of the applicant's claim and the fact that marriage of a daughter would be no bar for her being considered for compassionate appointment, the authorities rejected her claim by Annexure A4 communication dt. 30.06.2016 stating that the married daughter was fully independent for all her needs. Aggrieved by the said communication, the applicant is before this Tribunal.

3. Learned counsel for the applicant would submit that the applicant's father suffered a paralytic stroke due to which his right side was not functioning and his speech was also affected. The terminal benefits paid to the applicant's father were insignificant compared to the financial support the family needed on account of the medical treatment of the applicant's father and the expenditure on patient care to be provided to him. The applicant's marriage could not be held as a ground for denying compassionate appointment especially when the applicant's husband is not in regular employment and the applicant is residing with her father. Accordingly, the applicant is liable to be considered for compassionate appointment so as to enable her to take care of not only her father but herself also as a dependent daughter.

4. Learned counsel for the respondents would, however, oppose the prayer stating that the rejection of the prayer for compassionate appointment was not based on the fact that the applicant was a married daughter but based on economic condition of the family, she claims to take care of. As far as the applicant herself is concerned, her husband is working in one Alpha Wisdom Vidyashram Sr. Secondary School as a teacher and was earning Rs. 17,675/- as gross montly emoluments as on May 2016. As for dependence, it is the applicant's father who is dependent on the applicant and not the other way around. While the

services of the applicant are required by her father from a medical perspective and perhaps even physical support, it could not be said that the family was impoverished to the extent that he could not survive without compassionate appointment being granted to the applicant. It is submitted that the applicant's father was paid terminal benefits amounting to Rs. 12,99,821/- and is being paid a monthly pension of Rs. 11,925/- plus Dearness Relief thereon w.e.f. 17.04.2015. It is also submitted that the applicant's mother who was working as Sub-postmaster, Trichy took voluntary retirement on 04.07.2014 and was sanctioned Rs. 7,28,821/- as Gratuity. An amount of Rs. 10,670/- was also sanctioned to her as pension w.e.f. 04.07.2014 and the family is now entitled to family pension at rates recommended by the Seventh CPC.

5. Learned counsel for applicant would, however, contest the allegations. Attention is drawn to Annexure A9 report dt. 23.10.2015 of APO/E/TPJ wherein it was clearly mentioned that the applicant's husband was employed as a teacher in Alpha School, Tiruchirapalli with a consolidated income of Rs. 9000/-. The applicant's mother died on 16.10.2016 and, therefore, the family pension paid to her husband following her death is much less than what has been indicated in the reply filed by the respondents. Attention is also drawn to the report dt. 16.06.2015 (Annexure A7) wherein it was stated that the applicant's

mother was not in a position to take CG appointment due to age and poor health condition, huge expenditure was incurred for the medical treatment, speech therapy and physiotherapy of the applicant's father. Such treatment also required daily expenditure for a long duration and the pension amounts were not sufficient. Accordingly, compassionate appointment to the applicant might be considered as the claim was genuine and deserving, it is urged.

6. I have considered the matter. It is not in dispute that the applicant's father was medically incapacitated and ceased to be in employment on account of the paralytic stroke suffered by him. It is also noted that now the applicant's mother is no more and, therefore, the applicant is the only caregiver for her father. There is no independent income attributed to the applicant herself although her husband is alleged to be in receipt of a monthly pay of Rs. 17,675/- which, however, is disputed by the learned counsel for applicant relying on the report submitted by the APO dt. 23.10.2015. Although certain facilities may be available in Railway hospital for treatment of the pensioner, it could also not be disputed that the nature of ailment of the applicant's father including loss of speech requires continuous treatment and caregiving and, therefore, additional expenditure for hiring the services of a care-giver could not be ignored.

7. The impugned order by which the applicant's case for compassionate appointment has been rejected does not disclose how the competent authority arrived at the conclusion that the applicant's father did not require additional financial support. In the Railway Board instructions in RBE 70/2014, dt. 08.07.2014, it is clearly mentioned that the factual position regarding the extent of dependency may be got verified by deputing a Welfare Inspector to inquire into the circumstances. The relevant consideration seems to be that the person seeking compassionate appointment should satisfy the authorities that he or she would be a bread winner for the family. The relevant instructions are reproduced below:-

".....

Existence of a number of instructions as well as the issue of specific clause of 'dependency on the ex-Railway employee' have been engaging the attention of this office for sometime. Accordingly, the matter has been reviewed by the Board and it has been decided that it should be left to the discretion of the family concerned in case of death of ex-employee to request for job to either spouse or any child {whether son or daughter (unmarried/married/divorced/widowed)} subject to the condition that the concerned child will be the bread-winner of the family concerned. Further, for this purpose instructions issued by this Ministry vide letter issued under RBE No.22/2014 dated 04.03.2014 be read in the same spirit.

However, the dependent of an unmarried male/unmarried female Railway employee dying in harness/retiring on medical grounds, may be considered for compassionate appointment by the Railway at its own level, subject to the condition that the candidate proposed for appointment is shown as dependent on the ex-employee on the basis of documents such as inclusion/declaration of names in the pass or in Ration cards etc.. The condition of inclusion in the pass declaration or Ration cards etc. is only a facilitating factor, and not intended to be a restrictive one. In the absence of any such documentary proof, the factual position regarding the extent of the dependency may be got verified by deputing a Welfare Inspector to inquire into the circumstances. The relaxation of time limit

permissible in the case of minor children of those employees who die in harness would also apply in the case of dependents of those who die as bachelor/spinster.

....."

8. As the impugned communication dated 30.06.2016 is silent on the relevant details based on which the request of applicant's father for her appointment on compassionate grounds was turned down and how it was concluded that his married daughter was fully independent for all her needs, I am of the view that the ends of justice would be met in this case if the impugned communication is set aside and competent authority directed to consider the facts highlighted in the two reports (Annexure A7 dt. 16.06.2015 and Annexure A9 dt. 23.10.2015) relied upon by the applicant and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

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

**(R. Ramanujam)**  
**Member(A)**  
**13.08.2018**

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