

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.139/2019

Dated Friday, the 8th day of February, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

&

Hon'ble Mr.P.Madhavan, Judicial Member

J. Nagamani

No. 9, Kittangi Street

Kamuthi, Ramanathapuram Dt.

... Applicant

By Advocate M/s Ratio Legis

Vs

1. Union of India represented by

The General Manager

Southern Railway

Park Town, Chennai – 3.

2. The Divisional Railway Manager/P

Madurai Division, Southern Railway

Madurai – 10.

... Respondents

(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 the records related to the impugned order dated 19.02.2018 issued by the 2nd respondent and to quash the same and further to direct the respondents to consider the applicant for compassionate appointment and to make further order/orders .”

2. The applicant is aggrieved by Annexure A-5 communication dated 19.02.2018 in pursuance of the orders of this Tribunal in OA 1798/2017 dated 29.11.2017. The applicant had sought compassionate appointment following the death of his brother J.Nagamurugan who was appointed on compassionate ground as Trackman on 29.01.2008 following the declaration of his father as medically unfit with effect from 01.09.2007. Thereafter, the said J.Nagamurugan died as a bachelor while in service on 03.01.2013 and the applicant accordingly sought compassionate appointment. The impugned order rejects the claim of the applicant on the ground that the applicant's mother was in receipt of two pensions and, therefore, the family was not in distress.

3. Learned counsel for the applicant submits that the standing orders of the Railway Board did not allow the pension and terminal benefits paid to a family to be taken into account for determining the financial condition of the family for the purpose of compassionate appointment and as such the impugned order was a violation of such standing instructions.

4. We have considered the matter at the admission stage. A perusal of the impugned order indicates that after the death of the applicant's brother the applicant's mother had represented for appointing her on compassionate ground. It was rejected on 08.07.2014. Aggrieved by the rejection, the applicant's mother had filed OA 1246/2014 before this Tribunal and the same was dismissed by an order dated 22.04.2015 holding that the contentions raised in the OA were devoid of merits.

5. It is further noted that the applicant's mother filed an appeal before the Hon'ble Madras High Court in WP No.8059/2016 which was dismissed as withdrawn by an order dated 19.01.2017. As the matter has attained finality, her representation for compassionate appointment could not be entertained.

6. The applicant has not attached the copy of the order passed by this Tribunal in OA 1246/2014 dated 22.04.2015. We have no reason to believe that the relevant issues had not been agitated in the said OA. As the applicant's mother had filed a writ petition before the Hon'ble Madras High Court and subsequently withdrawn it, the order had attained finality and as such it must be held that the family was not in financial distress. If so, the claim of the family for compassionate appointment could not be resubmitted by filing another OA through the son on the very same contentions as it would be barred by the principles of constructive res judicata. There is no evidence to show that the grounds on which the applicant is challenging the impugned order are different from the ones on

which the mother had sought compassionate appointment and was dismissed by this Tribunal.

7. In view of the above, the OA is dismissed.

(P.MADHAVAN)
MEMBERJ)

08.02.2019

(R.RAMANUJAM)
MEMBER (A)

M.T.