

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA 310/01609/2015

Dated Wednesday the 15th day of November Two Thousand Seventeen

P R E S E N T

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

J. Amalraj
No. 17/54, Gandhi Street
Ponmalaipatti, Trichy 620 004.

... Applicant

By Advocate **M/s. Ratio Legis**

Vs.

1. Union of India represented by
The General Manager
Southern Railway
Park Town, Chennai.
2. The Workshop Personnel Officer
Central Workshop, Ponmalai
Southern Railway, Trichy.

... Respondents

By Advocate **Mr. Y. Prakash**

OA 310/01609/2015

ORDER (O.A.C.)

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

The applicant had filed this OA seeking the following relief:

“To call for the records related to impugned order No. GPB(CS)Comp/2097 dated 25.05.2015 and to quash the same, and further to direct the respondents to appoint the applicant on compassionate grounds and further to pass such other order/orders”

2. Heard. It is submitted that the applicant is a brother of late J. Vijaya Devarajan who died in harness while in the employment of the respondents. The deceased employee was unmarried and as such did not have a family of his own except his dependent mother. As per Master Circular No. 16, a near relative could be considered for compassionate appointment in such circumstances, if the family is in distress. It is clarified therein that a blood relation who is considered to be a bread winner of the family could be considered as a “near relative” for the purpose of appointment on compassionate grounds.
3. The applicant seeks to assail Annexure A2 communication by which his request for appointment on compassionate grounds had been 'regretted' by

the General Manager without assigning any reasons. Aggrieved by the rejection of his claim the applicant is before this Tribunal.

4. The respondents have filed their reply contesting the claim of the applicant for compassionate appointment on the ground that the deceased employee had not left behind any family to support except his mother. There is no dependent to be taken care of except the mother of the deceased employee Smt. Irudaya Sagayarani who, however, is being paid a family pension of Rs. 8165/- per month. A married brother could not be considered as a dependent relative as per the relevant Railway Board orders. The representation earlier received from the mother of the deceased employee was examined by the competent authority with reference to the genuineness of the claim, financial status, assets and liabilities of the ex-employee and also the dependency factor, number of dependent wards to be taken care of and the question of acting as bread winner to the family of the late employee. It is only after ascertaining that the applicant who is a married brother of the deceased employee was working in a private firm for a salary of Rs. 7000/- per month and the fact that the applicant's mother was drawing family pension of Rs. 8165/- that his case for compassionate appointment was rejected.

5. The learned counsel for the applicant would submit that the applicant was working intermittently in a private concern and was not in regular

employment. The applicant is entitled to be considered for compassionate appointment as a sole bread winner for the family left behind by his brother comprising his dependent mother. As for the family pension being paid to the dependent mother, the learned counsel would rely on the judgment of the Hon'ble Apex Court in Civil Appeal No. 260/2008 in *Canara Bank & Anr Vs.*

M. Mahesh Kumar, Para 15 and 16 of the judgment is extracted below:

"15. Insofar as the contention of the appellant-bank that since the respondent's family is getting family pension and also obtained the terminal benefits, in our view, is of no consequence in considering the application for compassionate appointment. Clause 3.2 of 1993 Scheme says that in case the dependent of deceased employee to be offered appointment is a minor, the bank may keep the offer of appointment open till the minor attains the age of majority. This would indicate that granting of terminal benefits is of no consequence because even if terminal benefit is given, if the applicant is a minor, the bank would keep the appointment open till the minor attains the majority.

16. In *Balbir Kaur & Anr. vs. Steel Authority of India Ltd. & Ors.*, (2000) 6 SCC 493, while dealing with the application made by the widow for employment on compassionate ground applicable to the Steel Authority of India, contention raised was that since she is entitled to get the benefit under Family Benefit Scheme assuring monthly payment to the family of the deceased employee, the request for compassionate appointment cannot be acceded to. Rejecting that contention in paragraph (13), this Court held as under:-

"13.But in our view this Family Benefit Scheme cannot in any way be equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the breadearner can only be absorbed by some lump-sum amount being made available to the family -- this is rather unfortunate but this is a reality.

The feeling of security drops to zero on the death of the breadearner and insecurity thereafter reigns and it is at that juncture if some lump-sum amount is made available with a compassionate appointment, the grief-stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the breadearner, but that would undoubtedly bring some solace to the situation. Referring to Steel Authority of India Ltd.'s case, High Court has rightly held that the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance. The High Court also observed that it is not the case of the bank that the respondents' family is having any other income to negate their claim for appointment on compassionate ground."

6. I have carefully examined the facts of the case. Annexure A2 communication by which the applicant's claim for compassionate appointment has been 'regretted' is clearly non-speaking. It is not in dispute that the deceased Government employee was survived by his dependent mother who is still alive. In terms of the aforesaid judgment of the Hon'ble Apex Court, it would appear that the mere fact that family pension is being received by the dependent mother is not adequate to reject the claim of compassionate appointment, if it could otherwise be substantiated that the family was without adequate financial support.
7. In view of the above, the case of the applicant deserves to be considered in terms of the relevant scheme and the order passed in response to the request for compassionate appointment should reveal application of mind by the competent authority after due examination. Accordingly I direct the

respondents to consider the case of the applicant for compassionate appointment in accordance with the procedure prescribed under the relevant scheme and as also the legal precedents in this regard and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order.

8. Accordingly OA is disposed of. No costs.