

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 13th day of June Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

OA.310/581/2017

M. Rishab Kumar,
S/o. (late) S. Murali,
Old No.46, New No.2,
Rukmani Nagar, 4th Street,
Poonamallee,
Chennai- 600 056.

....Applicant

(By Advocate: Mr. R. Pandian)

Versus

1) Union of India Rep. by
The General Manager,
Integral Coach Factory,
Chennai- 600 038;

2) The Chief Personnel Officer,
Integral Coach Factory,
Chennai- 600 038.

...Respondents

(By Advocate: Dr. D. Simon)

ORAL ORDER

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

Heard. Applicant has filed this OA seeking the following relief:-

“to call for all the records relating to the claim of the applicant for appointment on compassionate grounds, consequent to the death in harness of his father and the impugned order in No. PB/CON/128/666646 Dated 21.02.2017 issued by the 2nd respondent and to quash the same, consequently:-

i) to direct the respondents to provide appointment to the applicant on compassionate grounds in any suitable post.”

2. The grievance of the applicant is that the applicant's request for compassionate appointment following the death of his father in harness on 26.1.2016 had not been agreed to by the respondents who conveyed the decision in this regard by Annexure-A/11 impugned communication, dated 21.02.2017. It is stated that the applicant was not dependent on his father from the age of 4½ years till 20 years of age. Further, the applicant's father, late S. Murali had not shown him as dependent in official records.

3. Learned counsel for the applicant would submit that the applicant was the son of the divorced first wife of the late employee. The divorce was granted on the basis of mutual consent on 10.02.2000 from which date the applicant was under the guardianship of his mother. Notwithstanding the fact that the applicant was the son through a divorced wife, he had been granted 50% of the family pension along with the second wife of the deceased employee as per the relevant rules. It is, therefore, not correct to say that the respondents did not have any official record showing that the

applicant was a dependent of the late employee. It is not possible for the respondents to treat the applicant as dependent for the purpose of family pension and at the same time state that he was not dependent on the late employee for the purpose of compassionate appointment.

4. Learned counsel for the applicant would further submit that the claim of the second wife for compassionate appointment had already been turned down by the respondents on the ground that she had no issues and there was no dependent member of the family to be taken care of. As such, the applicant is now the only claimant for compassionate appointment. His dependency having been established on the basis of the respondents own records, the claim for compassionate appointment was liable to be considered on merits and not rejected summarily in the manner as stated in the impugned communication.

5. Learned counsel for the respondents would, however, argue that the applicant was granted 50% of the family pension because he was entitled to pro-rata share of the family pension as son of a divorced wife in terms of the relevant rules/circulars. However, compassionate appointment cannot be claimed as a matter of right and the respondents could not be expected to consider compassionate appointment as a matter of routine. There is no evidence of the applicant being indigent and, therefore, the OA is liable to be dismissed.

6. I have considered the submissions. It is not in dispute that the applicant is in receipt of pro-rata family pension consequent on the death of

his father on 26.1.2016 although the latter's marriage with his mother had been annulled on 10.2.2000 itself when the applicant was 4½ years old and granted guardianship of his mother. Clearly, in granting pro-rata family pension, the applicant would have been considered as a dependent son of the late employee. As such, the contention that there was no official record showing the applicant as a dependent son of the late employee is not tenable.

7. Further, since the applicant had been accepted as a dependent son entitled to family pension, his request for compassionate appointment ought to be considered on merits following the prescribed procedure and not rejected summarily on the ground that the applicant was not a dependent son. The applicant's claim for compassionate appointment could not be turned down in the absence of an express provision in the scheme for compassionate appointment to bar claims by a son/daughter of a divorced spouse. As a matter of fact, the compassionate scheme of the respondents provide for appointment of even near relatives, adopted sons, etc and, as such, it does not stand to reason that the applicant should be considered ineligible for compassionate appointment only on the ground that he was the son of a divorced wife. The view taken by the respondents in the matter of compassionate appointment is inconsistent with and contradictory to their own view in relation to entitlement to family pension in the same facts and circumstances of the case which cannot be sustained.

8. In view of the above, the respondents are directed to consider the claim of the applicant for compassionate appointment on merits in accordance with the procedure laid down under the scheme and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. OA is disposed of accordingly. No costs.

(R. RAMANUJAM)
MEMBER (A)

Asvs.

13.06.2019