

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday 4th day of December Two Thousand And Eighteen

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

O.A.310/357/2016
&
M.A. 388 of 2016
In
O.A. 310/357/2016

A. Varatha Sundari Ponnuthai,
W/o. Late A. Sam Victor Asir,
L-84, Annakundiyiruppu,
S.V. Mills Post Office,
Udumalpet- 642 128.

....Applicant in both MA &OA

(By Advocate: M/s. S. Gunalan & R. Gokulakrishnan)

Versus

1. UOI Rep. by
The General Manager,
Southern Railways,
Park Town,
Chennai-3;
2. The Sr. Divisional Personnel Officer,
Southern Central Railway,
Gundakal;
3. The Personnel Officer,
Divisional Office,
Personnel Branch,
South Central Railway,
Guntakal.

.....Respondents in both MA &OA

(By Advocate: Mr. P. Srinivasan)

ORAL ORDER

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

When the matter is called, Counsel for the applicant is represented by one Mr. Naveen Kumar who submits that he is not familiar with the facts of the case. On perusal, it is seen that earlier also the matter had been restored after being dismissed for default by an order of the Hon'ble High Court of Madras in W.P. No. 9840/2017 dated 13.06.2017. Thereafter, the counsel for the applicant was absent on 03.10.2018 and when the matter was called on 29.10.2018, counsel for the applicant prayed for time. However, when it was called again on 2.11.2018, the applicant was represented by a junior counsel, who submitted that he was not familiar with the facts of the case. Accordingly, the matter was posted for 28.11.2018. As the matter could not reach on 28.11.2018, matter was posted to today. Today also, the applicant is represented by a person who is clueless about the facts of the case.

2. Learned counsel for the respondents would submit that the applicant has filed this O.A seeking compassionate appointment for her son consequent on the death of her husband on 14.06.1996. The applicant's daughter had been granted compassionate appointment on 28.11.2005 but she did not take up the appointment. It was a clear indication of the fact that the family was not in financial distress. The respondents in their reply have cited a number of judgments of the Hon'ble Apex Court to plead that compassionate appointment was not a matter of right and the first condition that must be fulfilled is that the family should be in distress. The applicant's husband died in 1996 and today the family is well off. The applicant's son is an Engineer, who holds a B.E. degree and is capable of finding employment on his own merit. As such, the OA is frivolous and is liable to be dismissed. The claim of the applicants' further suffers from delay and laches, it is contended.

3. I have considered the matter. It is not in dispute that the applicant's husband died on 14.06.1996 and the applicant sought compassionate appointment for her daughter, S. Vinolin Cynthia which was granted in the year 2005. However, the family did not avail of the compassionate appointment and the applicant is now seeking compassionate appointment for her son. After a careful examination of the pleadings, I am of the view that as a period of 22 years had elapsed since the death of the government employee and an offer of a compassionate appointment to a member of the family even 9 years after his death had not been availed of, this is not a fit case for interference by this Tribunal. More so, when no illegality or infirmity is pointed out except to allege that the applicant had changed her mind and registered her son's name for compassionate appointment on 28.10.2004 after her daughter's case had already been processed and she was called for written test /interview.

4. In view of the above, the O.A. is devoid of merits and is dismissed. No costs.

5. M.A. 268/2015 seeking condonation of delay of 1986 days in filing OA stands disposed of in the light of this order.

(R. RAMANUJAM)
MEMBER (A)

04.12.2018

Asvs.