

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/0053/2018

Friday, this the 28th day of June, 2019.

CORAM:

HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

1. Rugmini.T, 57 years,
W/o. Govindan. C (late),
Ex-Technician I/Signals/Alwaye),
Residing at: Meppattu House,
Ithingaparambu, Akathethara (P.O.),
Palakkad – 678 008.
2. Shibu.G, 34 years,
S/o.Govindan. C (late),
Ex-Technician I/Signals/Alwaye),
Residing at: Meppattu House,
Ithingaparambu, Akathethara (P.O.),
Palakkad – 678 008. Applicants

(By Advocate : Mr. T.C. Govindaswamy)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Head Quarters Office,
Park Town (P.O.), Chennai – 600 003.
2. The Principal Chief Personnel Officer,
Southern Railway, Head Quarters Office,
Park Town P.O, Chennai – 600 003.
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014.
4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum – 695 014. Respondents

(By Advocate : Mrs. Girija K. Gopal)

The application having been heard on 24.06.2019, the Tribunal
on 28.06.2019 delivered the following:

O R D E R**Per: E.K. Bharat Bhushan, Administrative Member**

O.A No. 53/2018 is filed by Smt Rugmini T and Shri Shibu G, widow and son of late Govindan C, Ex-Technician under the respondent organisation. They are aggrieved by the denial by the respondent organisation of the claim for compassionate ground appointment filed by the 2nd applicant. The late Govindan. C had passed away, when he was working as Technician-I on 13.12.2014. The 2nd applicant is the son of the 1st applicant and he has two siblings, both of whom are married and settled. The 2nd applicant is unemployed. His mother, the widow of the said Govindan, is suffering from various chronic diseases.

2. When the 1st applicant had requested for compassionate ground appointment for her son, she was informed that minimum educational qualification for appointment on compassionate ground is matriculation. The 2nd applicant thereupon as advised his mother successfully completed 10th Standard and passed the SSLC equivalent examination. On 12.11.2016, an application was submitted to the respondents seeking appointment under Compassionate Appointment Scheme. The Welfare Inspector attached to the office of the respondent organisation visited the applicants' home and submitted a report on the applicants' financial and other status.

3. It is submitted in the O.A that the applicants have 4 cents of barren land in the name of the 1st applicant and another small plot in the

name of the 1st applicant's late husband. A house has been built in the latter land and a large loan had to be taken for the purpose, which has to be repaid. The applicants were relying on the 2nd applicant getting an appointment and all their hopes have been dashed with the receipt of the impugned order at Annexure A-8 and A-12.

4. In Annexure A-8 order, the various settlement benefits received by the family have been detailed as also the fact that the 2nd applicant is now aged 34 years. The Welfare Inspector's report indicating that the applicants are residing in a roof concreted house of 700 Sq. ft. of 2 bed rooms on 7.5 cents of land has also been referred to. It has been further stated that the approximate cost of the house will be Rs. 20 lakhs and that the request of compassionate ground appointment has been submitted after three years of the death of the employee.

5. The reliefs sought are as follows:-

“(i) Call for the records leading to the issue of Annexures A8, A10, A12 and quash the same.

(ii) Declare that the failure on the part of the respondents to consider the 2nd applicant for appointment on compassionate ground taking into consideration the facts as relates to the debts and liabilities and the indigent conditions faced by the family is arbitrary, discriminatory, contrary to law and hence unconstitutional.

(iii) Direct the respondents to reconsider the case of the 2nd applicant for an appointment on compassionate grounds, taking into consideration the facts on record as relates to the debts and liabilities and the indigency faced by the family and without reckoning only the death benefits received by the 1st applicant and the properties as the main criterion for determining the hardships faced by the family.

(iv) Direct the respondents to grant the benefit of compassionate appointment to the 2nd applicant within a time

limit as may be found just and proper by this Hon'ble Tribunal, with all consequential benefits arising therefrom;

(v) Award costs of and incidental to this application;

(vi) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case."

6. In the reply statement, the respondents have stated that the object of the Scheme for providing appointment under compassionate ground to an eligible dependent family member of a Railway employee, who dies in harness or retires due to total medical incapacitation is to relieve the dependent family members from financial distress and help to get over the emergency caused by the death. In this case, it is stated that the two elder children of the deceased employee, both daughters aged 37 years and 32 years respectively are married and settled down. The employee's son, who is the 2nd applicant is stated to be working as a Technician. The reply goes on to state as follows:-

"Considering these aspects and also the facts that the 1st applicant is the only dependent that she received more than Rs. 11 Lakhs by way of retirement benefits and further that she has been receiving Rs. 17,450/- per month as family pension plus applicable DR, it is construed that the family of the deceased employee is not in indigent condition and hence, grant of appointment under compassionate ground is unwarranted, it is humbly submitted."

7. Certain judgments of various Benches of this Tribunal as also other judicial Forum have also been referred to in the reply. These are to the effect that it is the indigency of the applicant, which is the most important aspect to be considered while examining the eligibility for compassionate ground appointment. While the 2nd applicant is, indeed, eligible in terms of the educational qualification, the level of the

indigency of the applicants is not established. It is further stated that the request of the applicants have come in after more than three years of the death of the employee.

8. The Scheme for compassionate ground appointment has been formulated in order to take care of the indigency of the family members, who are left behind on account of the death of the employee. It is necessary that each case, where an application is made, has to be examined in detail before a decision is taken either to sanction or to reject the same. In the impugned orders at Annexure A-8 and A-12, the first argument raised appears to be the fact that the settlement benefits have been received by the family in full along with other substantial amount. As was brought out in the judgment of the Hon'ble High Court of Calcutta in ***Govind Prakash Verma v. Life Insurance (2005) 10 SCC 289***, this alone as also the fact that the family is now staying in a residential building, do not amount to disqualifying factors. The respondents have cited several judgments to the effect that the circumstances of each case have to be examined in full. This Tribunal is not of a different opinion. However, it is felt that the rejection per se, as has been somewhat cryptically stated is owing to these factors. Only two aspects are confirmed in the reply that the 2nd applicant works as Technician and that the family has a one room house and some barren land. I feel that the case has to be looked at afresh, if necessary, by giving the applicants an opportunity to adduce more evidence regarding

their financial status. The 4th respondent is directed to consider the case afresh, if necessary, after giving a personal hearing to the applicants and dispose of their request through a speaking order, which shall be done within 60 days from the date of receipt of a copy of this order. The O.A is disposed of as above. No order as to costs.

(Dated, 28th June, 2019.)

**(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

ax

Applicants' Annexures

Annexure A1 - True copy of termination letter, as result of the unfortunate demise bearing number O.O. No. 08/2015/S&T (V/P 579/I/Vol XVII dated 06.02.2015) issued on behalf of the 4th respondent.

Annexure A2 - True copies of loan particulars

Annexure A3 - True copies of medical records of the 1st applicant.

Annexure A4 - A true copy of the certificate (Standard X-Equivalency Certificate) issued by Secretary, General Education Department, Government of Kerala with Register Number 19259 dated 31.01.2017.

Annexure A5 - A true copy of the application forms dated 01.02.2017.

Annexure A6 - A true copy of covering letter sent by the applicant to Divisional Personnel Officer, Southern Railway, Trivandrum.

Annexure A7 - The Scheme regarding the compassionate appointment issued by the Railway Board as Master Circular bearing No. 16 dated 12.12.1990 along with its subsequent amendments.

Annexure A8 - A true copy of communication bearing No. V/Z.735/07/2017 dated 16.10.2017, issued by the 4th respondent.

Annexure A9 - A true copy of the representation dated 23.10.2017 to the 4th respondent considered by the 3rd respondent.

Annexure A10 - A true copy of communication bearing No. V/Z.735/07/2017 dated 6.11.2017, issued by the 4th respondent.

Annexure A11 - A true copy of the appeal sent to the Appellate Authority the 2nd respondent dated 10.11.2017.

Annexure A12 - A true copy of communication bearing No. PB/CS/30/Representation/Vol. IV dated 04.12.2017, issued by the 2nd respondent.

Annexures of Respondents

NIL
