

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD**

Original Application No.020/1534/2014

Date of C.A.V. : 23.07.2018

Date of Order : 27.12.2018

Between :

1. B.Ramulu, S/o Late Pentaiah, Age 70 years,
Occ : Ex Gangman in SCR, R/o Thummakapalli Village and Post,
Kothavalasa Mandal, Vizianagaram District, A.P.
2. Bora Narayananamma, S/o B.Ramulu, Age 36 years, Occ : Nil,
R/o Thummakapalli Village and Post,
Kothavalasa Mandal, Vizianagaram District, A.P. ... ApplicantS

And

1. The Union of India, Rep. by its Secretary,
General Manager (P), East Coast Railways,
2nd Floor, South Block, Rail Sadan,
Samantha Vihar, Bhubaneswar – 751017.
2. The Chief Personnel Officer,
East Coast Railways, Rail Sadan,
2nd Floor, South Block, Chandrasekharpur,
Bhubaneswar – 17. ... Respondents

Counsel for the Applicants ... Dr.P.B.Vijaya Kumar, Advocate
Counsel for the Respondents ... Mrs.A.P.Lakshmi, S.C. for Rlys.

CORAM:

***Hon'ble Mr.Justice R.Kantha Rao* ... Member (Judl.)**

ORDER

{ As per Hon'ble Mr.Justice R.Kantha Rao, Member (Judl.) }

The applicant No.1 is the father of applicant No.2. Earlier the

applicants filed OA.712/2013 against the rejection order passed by the respondents in the matter of providing compassionate appointment to the 2nd applicant. In the said OA the Tribunal by order 11.04.2014 set aside the impugned letter dated 13.02.2013 with a direction to the 2nd respondent to reconsider the representation of the applicant dated 26/27.11.2012 and issued a direction to pass a reasoned order. Thereafter the 2nd respondent passed a rejection order dated 28.08.2014 rejecting the request of the 2nd applicant for compassionate appointment on the ground that the request was time barred. Therefore, the applicant filed the present OA.

2. Briefly stated, the facts relevant for considering the issue involved in the present OA are that the applicant who was working as Gangman in respondents Railways was medically decategorized on 18.08.1999, though he was offered alternative appointment did not join the same and opted for voluntary retirement and consequently retired from service voluntarily w.e.f. 22.03.2000. The 1st applicant was aged 70 years, the 2nd applicant who is the daughter for whom the compassionate appointment was sought was aged 36 years on the date of filing of the OA in the year 2014. The Railway Board's order dated 06.03.2002 provides for compassionate appointment to the children of the employee who retired voluntarily between 29.04.1999 and 18.01.2000. The 1st applicant submitted a representation to the department seeking compassionate appointment to the 2nd applicant in the year 2006. The same was rejected on the ground that it was time barred and even subsequent to the order passed by the Tribunal directing the 2nd respondent to reconsider the case and pass a speaking

order, the compassionate appointment was rejected by the order impugned in the OA on the ground that it was barred by time. The said order is challenged in the present OA and a direction to consider the case of the 2nd applicant for compassionate appointment was sought by the applicants. The Railway Board's letter dated 07.04.1983 states that the request for employment on compassionate grounds is to be submitted within 5 years of occurrence of the event when major children are available on the date of occurrence of the event. As per the powers vested with the General Manager who was the competent authority to decide the case of the 2nd applicant under RBI 106/2004, if an application is made after lapse of 5 years after medical decategorization, the General Manager has a discretion to relax the time on examining the conditions of the family of the employee who voluntarily retired on medical decategorization.

3. The Master Circular No.16 Para-V which deals with time limit for making compassionate appointment is as follows :

(a) Normally all appointments on compassionate grounds should be made within a period of five years from the date of occurrence of the event entitling the eligible person to be appointed on this ground. This period of five years may be relaxed by the General Manager, subject to the following conditions :

- (i) The powers shall be exercised personally by the General Manager. It shall not be delegated to a lower authority.*
- (ii) The case should not be more than ten years old as reckoned from the date of death.*
- (iii) The widow of the deceased employee should not have remarried.*
- (iv) The benefit of compassionate appointment should not have been given at any time to any other member of the family or to a near relative of the deceased employee.*

(v) The circumstances of the case should be such as to warrant relaxation of the time limit of five years.

(vi) The reasons for relaxing the time limit should be placed on record.

(vii) The request for compassionate appointment should have been received by the Railway Administration as soon as the son / daughter to be considered for compassionate appointment has become a major, say within a maximum period of one year.

4. In the light of the circular which deals with providing compassionate appointment to the wards of employee who retired voluntarily on medical decategorization, the respondents submitted that the order passed by the General Manager is in accordance with the circular as the claim put forth by the applicant is hopelessly time barred and therefore the respondents sought to dismiss the OA.

5. I have heard Mr.P.Ramchander Rao representing Dr.P.B.Vijaya Kumar, learned counsel for the applicant and Mrs.A.P.Lakshmi, learned standing counsel for the respondents.

6. The 1st applicant was aged 70 years, he was medically decategorized in the year 1999 and retired voluntarily in the year 2000, by which time the 2nd applicant was a major. Compassionate appointment will be provided to the wards of the deceased employee / the employee who retired voluntarily on medical decategorization to meet the sudden crises which arises out of the particular event. Compassionate appointment cannot be said to be one of the main source of employment. Any request for compassionate appointment can be made only within a reasonable time after the event. Even though there is provision for compassionate appointment as per the scheme formulated by the department,

the request for compassionate appointment has to be made within a reasonable time and the competent authority / committee would examine the conditions of the family of the employee who retired voluntarily and in suitable cases the competent authority / committee would provide compassionate appointment to the ward of the employee who retired voluntarily on medical decategorization.

7. In the instant case on the date of voluntary retirement of the 1st applicant on medical decategorization, the 2nd applicant was major, but no application was submitted to the department till 2006. The Managing Director who is the competent authority to condone the delay examined all the relevant factors, took into the consideration the inordinate delay in making the application and accordingly rejected the claim of the 2nd applicant for compassionate appointment. I do not see any valid reason to interfere with the decision taken by the General Manager in rejecting the request of the 2nd applicant for compassionate appointment.

8. The OA therefore fails and accordingly the same is dismissed. There shall be no order as to costs.

***(JUSTICE R.KANTHA RAO)
MEMBER (JUDL.)***

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