

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

DATED THIS THE 22ND DAY OF JANUARY, TWO THOUSAND NINETEEN

PRESENT

THE HON'BLE MR. T. JACOB, MEMBER (A)

OA/310/00422/2017

G. Vamsi Krishna,
S/o Late G. Ramaiyah,
Babuji Colony,
8/498, Sullurpetta,
Nellore District,
Andhra Pradesh.

...Applicant

-versus-

1. Union of India rep., by
The General Manager,
Southern Railway,
Park Town, Chennai 600 003.
2. The Senior Divisional Personnel Officer,
Chennai Division,
Southern Railway,
Park Town, Chennai 600 003.
3. The Senior Divisional Personnel Officer,
NGO Annexe, Chennai Division,
Southern Railway, Park Town,
Chennai 600 003.

...Respondents

By Advocates:

M/s Ratio Legis, for the applicant.

Mr. K. Vijayaragavan, for the respondents.

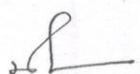
ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

This OA has been filed by the applicant under Sec.19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"...to call for the records related to impugned order No.PB/CS/30/MAS /Misc/2014 dated 07.12.2015 made by the 1st respondent and to direct the respondents to appoint the applicant on compassionate grounds in terms of Master Circular 16 issued by the Railway Board and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice."

2. The brief facts of the case are that the applicant was adopted at the age of 5 years by Late G. Ramaiah and his wife G. Rushendramma vide Adoption Deed dated 3.2.1993. The said G. Ramaiah while working as Gangman died on 13.3.1999 ie., 6 years after the adoption of the applicant due to illness. The wife of the deceased Railway Servant submitted a representation dated 21.9.1999 seeking compassionate appointment to the adopted son on attaining majority as at that point of time, he was 10 years old. Thereafter, the request of the applicant was considered and rejected by order dated 16.5.2008 and 4.7.2008 on the ground that the deceased Railway Servant adopted his own grandson as his son and therefore, the adoption is not valid. The appeal preferred against the said order was also rejected by order dated 17.9.2012. Aggrieved by the said order of rejection, the applicant filed OA.1485/2012 which was dismissed by the Tribunal. Against the said order of dismissal, the applicant preferred W.P.699/2014 wherein the Hon'ble High Court of Madras while setting aside the order of this Tribunal remitted the matter to the second respondent (General Manager) who is the first respondent in the present OA to



consider the claim of the applicant in the light of the Master Circular in respect of Appointment on Compassionate Grounds (Scheme) and pass fresh orders. Pursuant to the said order of Hon'ble High Court, the respondents considered the claim of the applicant in terms of Master Circular 16 issued by the Railway Board but his request was turned down by order dated 5.8.2014. Thereafter the applicant filed OA.212/2015 wherein this Tribunal by order dated 5.10.2015 directed the respondent to consider the request of the applicant afresh but the respondents again rejected the claim of the applicant vide impugned order dated 7.12.2015. Hence the applicant has filed this OA seeking the above relief.

3. Per contra, the respondents have filed a reply stating that G. Ramaiah, while working as Gangman in the Office of the Permanent Way Inspector/Sullurpet died on 30.3.1999. Within a period of three months, the entire settlement benefits were paid to Smt Rushendramma, the widow of the deceased G. Ramaiah and family pension was also sanctioned to her. Smt Rushendramma submitted a representation dated 27.7.1999 requesting to register the name of the adopted son for appointment on compassionate grounds as soon as he attains majority. In the year 1999, the applicant was 9 years old. Since the applicant was the adopted son of the deceased employee and that the deceased employee had adopted his own grandson as his son, his claim was rejected. The respondents further submit that in terms of the Railway Board's letter dated 20.5.1988, the adopted son could be considered for appointment on compassionate grounds provided

- (a) **There is satisfactory proof of adoption valid legally;**



- (b) The adoption is legally recognized under the personal law governing the Railway servant;
- (c) The legal adoption process has been completed and has become valid before the date of death / medical decategorisation / medical incapacitation (as the case may be) of the ex-employee.

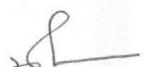
The respondents further submit that the applicant has adopted his own grand son born through the wedlock between his daughter Smt Jyothi and Shri Manoharan. Further the applicant lived along with his biological parents only at Nellore. At the time of verification in 2017, it was found that the applicant was not residing with Smt G. Rushendramma, the widow of Late G. Ramaiah. Subsequently it is only after the rejection of the claim, the applicant has changed the residential address from Nellore to Sullurpetta in most of the documents. All the documents were created as an afterthought. Further in this case more than 9 years have passed from the date of death of the employee and the date of consideration. Hence the respondents pray for dismissal of the OA.

4. The respondents have referred to various case laws in support of their case.

- (1) 1994 SCC (L&S) 737 (Life Insurance Corporation Vs. Mrs. Asha Ramachandra Ambedkar)
- (3) 1998 SCC (L&S) 1302 (Director of Education (Secondary) & Anr., vs. Pushpendra Kumar & Ors.,
- (4) 1994 (4) SCC 138 (Umesh Kumar Nagpal Vs. State of Haryana)
- (5) 2006 (7) SCC 350 (Union Bank of India & Ors. Vs. M.T. Latheesh)

5. Heard the counsel for the respective parties and perused the pleadings and documents on record.

6. Admittedly, as stated above, this is the third round of litigation before



this Tribunal. Not satisfied with the order passed by the respondents in pursuance of the directions of this Tribunal in OA.212/2015 the applicant has filed this OA

7. The claim for compassionate appointment is to be considered in terms of Para V (a) of Master Circular No. 16 of the Railway Board wherein the time limit for making compassionate appointments is stipulated. The relevant para reads as under:

"V. TIME LIMIT FOR MAKING COMPASSIONATE APPOINTMENTS:

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."



Further the Railway Board in its letter No. RBENo. 77/2011 dt. 31.05.2011 has stated that the General Manager may consider and decide the time barred cases of compassionate appointment which are upto 25 years old from the date of death / medical unfitness of the ex-employee.

8. It is clear that General Manager is authorised to even consider the case which was submitted after attaining the age of majority. In the instant case, admittedly the father of the applicant died on 30.03.1999 when the applicant was minor and moved his application after attaining the age of majority. The object of providing appointment on compassionate grounds of the deceased is to tide over the immediate financial crisis that has fallen on the family and to take care of the left over members. It could be seen that there was no immediate financial crisis arising out of the death of the breadwinner of the family and the applicant's mother was not in impecunious circumstances immediately on the death of her husband nor the applicant was in need of financial assistance for sustenance of his education. The present case is more than 10 years old since the death of the employee and does not fulfil Rule V(a) (ii) of Master Circular No. 16. The respondents have stated that they did not find any compelling circumstances warranting relaxing the time limit in the instant case.

9. The Hon'ble Apex Court in Civil Appeal No.13730 of 2011 in the case of State Bank of India & Ors., vs. Surya Narain Tripathi decided on 11.2.2014 and Civil Appeal No.334 pf 2013 in the case of MGB Gramin Bank Vs. Chakravarthi Singh decided on 7.8.2013 had made it crystal clear that the compassionate



appointment is basically a way out for the family which is financially in difficulties on account of the death of the bread winner. It is not an avenue for a regular employment as such. This is in fact an exception to the provisions under Art.16 of the Constitution. That being so, if an employer points out that the financial arrangement made for the family subsequent to the death of the employee is adequate, the members of the family cannot insist that one of them ought to be provided compassionate appointment.

10. It is also well settled proposition of law that compassionate appointment has to be given to such persons who are indigent to such an extent that they cannot make both ends meet. In that regard, reliance may be placed on the judgments of Hon'ble Supreme Court rendered in the cases of the Hindustan Aeronautical Ltd. Vs. A. Radhika Thirumalai 1996 (3) SCC 394, National Hydro Electric Power Corporation V. Nanak Chand 2004(12) SCC 487, State of Manipur Vs., Mohd. Rajaodin 2003(7) SCC 511, and Commissioner of Public Instructor V. Vishwanath 2005(7) SCC 2006.

11. Moreover, while processing the case, it was noticed that Shri. Ramaiah, Ex. Gangman/SSE/PW/PON/MAS had adopted his own grandson born through the wedlock between his daughter Smt. Jyothi and Shri. Manoharan. On verification it was found that all along Shri. Vamshi Krishna lived along with his biological parents at Nellore and not with Smt. G. Rushindramma, the widow of the deceased employee. Shri. Vamshi Krishna has completed his studies at Nellore while the widow was living at Sullurpet. All the educational certificates support this fact. Hence there has been no dependency and the family has survived from the day of death of the Government servant and the date of



consideration. In view of the decisions rendered by Hon'ble Supreme Court in M.T. Latheesh's case as well as in the case of State of J&K and Ors. Vs. Sajad Ahmed Mir and National Institute of Technology Vs. Manoj Kumar Singh (Supra), the appointment on compassionate ground cannot be granted to the applicant after lapse of sufficient time of the death of the employee. As per the decision of Hon'ble Apex Court rendered in State of J&K (supra), in which it has been held that once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Art. 14 of the Constitution.

The Hon'ble Apex Court in the case of Life Insurance Corporation vs. Mrs. Asha Ramachandra Ambedkar (1994 SCC (L&S) 737) has held that

"the Courts should endeavour to find out whether a particular case in which sympathetic consideration are to be weighed falls within the scope of law. Disregarding law, however, harsh a case may be, it can never be done and that the Courts and Administrative Tribunals cannot direct compassionate appointment on the grounds of sympathy, disregarding the instructions / law on the subject. Also, they cannot direct the appointment of a person on compassionate grounds. They can merely direct consideration of the claim of such an appointment"

12. In view of the aforesaid observations and the law laid down by the Hon'ble Apex Court, the applicant has failed to make out any case for interference. Accordingly the OA is dismissed being devoid of merit. There will be no order as to costs.