

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

DATED THIS THE 6th DAY OF FEBRUARY, TWO THOUSAND NINETEEN

PRESENT:

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

OA/310/01343/2016

1. Madhuri Latha
No. 44 Dr. Ambedkar Telugu Nagar
2nd Street, Ayanavaram
Chennai 600 023.

2. L. Chaiathanya Bhooshan
No. 44 Dr. Ambedkar Telugu Nagar
2nd Street, Ayanavaram
Chennai 600 023.

... Applicants

By Advocate **M/s Ratio Legis**

Vs

1. Union of India represented by
The General Manager
Southern Railway
Park Town, Chennai.

2. The Chief Personnel Officer
Southern Railway
Park Town, Chennai.

3. The Dy. Chief Materials Manager
General Stores, Stores Depot
Southern Railway, Perambur
Ayanavaram, Chennai 23.

... Respondents

By Advocate **Mr. P. Srinivasan**

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 the impugned order No.PB/CS/30/HQ/Misc/2016 dated 21.07.2016 issued by the 2nd Respondent and to quash the same and further to direct the respondents to do the necessary to consider the 2nd applicant for compassionate ground appointment in terms of the mandatory provisions and to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice."

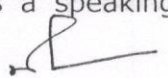
2. The brief facts of the case, according to the applicant are that, the first applicant is the wife of Late L. Thomas Mount who died in harness on 10.05.2002 while working as Store Keeper in the office of the General Stores at Perambur, Southern Railway and the 2nd applicant is the son of the deceased employee. The first applicant had applied for appointment on compassionate ground with all necessary documents but however, her claim was rejected by an incompetent authority stating that the school certificate produced by her was a bogus one. The claim of the second applicant/son for compassionate appointment was also rejected vide impugned order dated 21.07.2016 stating that since the qualifying certificate produced by the first applicant/mother was found to be bogus, as such the entire family forfeits the claim for compassionate appointment. Hence the applicant has filed this OA seeking the above reliefs.
3. Per contra the respondents have filed a detailed reply statement denying the averments made in the OA. It is submitted that apart from the applicant,



Late L. Thomas Mount had a son and two daughters. The first applicant had applied for appointment on compassionate ground when the second applicant was a minor. She had applied for appointment by producing a certificate that she had studied upto IX standard. On verification of the qualifying certificate produced by the first applicant it was found that she had produced a bogus certificate and, therefore, her claim was rejected. On attaining majority the second applicant applied for appointment on compassionate ground along with the X standard qualifying certificate. However, the claim of the second applicant was also rejected by the respondents on the ground that the school certificate produced by the mother of the applicant namely the first applicant was found to be a bogus one. As per the extant order, if one of the family members of the deceased Railway employee submits a false certificate, then the entire family forfeits the claim for appointment on compassionate grounds. The action of the respondents in rejecting the claim of the applicant for appointment on compassionate ground is valid as per rules and also as per law and it is not violative of Art.21 of the Constitution. Hence the respondents pray for dismissal of the OA.

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

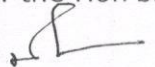
5. Admittedly, this is the second round of litigation before this Tribunal. Earlier the applicant has approached this Tribunal by filing OA.1343/2016 and this Tribunal by order dated 12.8.2016 directed the respondent authority to reconsider the candidature of the second applicant for compassionate appointment on merits based on his own certificates and pass a speaking



order. As against the said order of this Tribunal, the respondents in the present OA, filed W.P.2943/2017 before the Hon'ble High Court of Madras wherein by order dated 22.3.2017, the Hon'ble High Court after setting aside the impugned order passed by the respondents dated 12.8.2016 remitted the case back to this Tribunal to pass orders on merit and as per law after giving a reasonable opportunity to the respondents to file a reply statement.

6. There is no dispute with regard to the facts of the case. The only question that arises for consideration in this OA is whether the rejection of the claim of the second applicant/son for compassionate appointment on the ground that the first applicant/mother had produced a bogus qualifying certificate is justified.

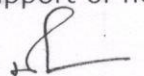
7. The learned counsel for the applicant would vehemently contend that the Master Circular 16 postulates for compassionate appointment to eligible ward or to the widow in the event of the ward happens to be a minor in a post for which the candidate is eligible and suitable vide Railway Board's letter dated 16.11.1984. Further the disagreement by the respondents in offering compassionate appointment to the second applicant stating that the first applicant's certificate was a bogus one is unfounded. The second applicant has an onerous duty to take care of the first applicant during her old age and the impugned rejection of compassionate appointment of the second applicant on that ground is against law. The learned counsel would refer to the order passed by this Tribunal in OA.1343/2016 dated 12.8.2016 wherein reference has been made to the order passed by the Central Administrative Tribunal, Calcutta Bench in OA.294/2014 dated 5.1.2016 based on the Judgement of the Hon'ble



High Court of Calcutta in WPCT No.249 of 2013 dated 4.7.2013 in the case of Smt Sushila Bauri & Anr., vs. Union of India and others wherein it is held that it is no more res integra that the candidature of the person cannot be rejected merely because the applicant's brother produced earlier the fake educational certificate. Further perusal of the order of the Hon'ble High Court of Calcutta would show that the Railway Board's circular treating the entire family as one not entitled for compassionate appointment in view of the bogus certificate produced by one of the members of the family was incorrect and as such, set aside the impugned order directing the respondent authority to reconsider the candidature of the second applicant for compassionate appointment on merit based on his own certificate and to pass a speaking order.

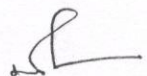
8. Learned counsel for the respondents would submit that as per extant orders if one of the family members of the deceased railway employee submits a false certificate then the entire family forfeits the claim for compassionate ground appointment. The respondents have also produced various orders/Judgements which deal with the individual who had tried to obtain employment by fraudulent means.

9. The appointment on compassionate ground may not be claimed as a matter of right nor the applicant becomes entitled automatically for appointment, rather it depends on various other factors namely eligibility and financial conditions of family etc., The application has to be considered in accordance with the scheme for compassionate appointment. It is not in dispute that the petitioner No. 2 is a member of the weaker section. The mother of the petitioner No. 2 did not submit valid certificates in support of her



educational qualification and as a result whereof the respondent authorities refused to consider the claim of the applicant's mother for employment on compassionate grounds. The mother of the petitioner No. 2 committed a wrong by not submitting proper documents before the authorities concerned in support of her claim for appointment on compassionate grounds. However provision has been made to offer employment to a member of the family of the deceased employee on compassionate ground in order to help the said family of the deceased employee to overcome the sudden financial crisis on account of the death of the only earning member of the family. Therefore, the humanitarian consideration to grant employment on compassionate ground to a member of the deceased family cannot be ignored by the respondent authorities. Considering the conduct of the mother of the petitioner No. 2, the respondent authorities may refuse to grant any employment to the mother but the other members of the family of the deceased employee namely, the petitioner No. 2 herein cannot be penalised on the ground that his mother submitted invalid and improper documents in support of his claim for employment.

10. The respondent authorities herein sought to punish the other members of the deceased family including the petitioner No 2 by refusing to grant employment on compassionate ground to the said petitioner No. 2 upon considering the conduct of the mother of the petitioner No. 2 herein. This is a misplaced punishment on an unerring person for the wrong committed by somebody else in which he had no role to play. There can be no quarrel to the settled legal proposition that the claim for appointment on compassionate



grounds is based on the premise that the second applicant was dependent on the deceased employee.

11. In view of the above facts and circumstances of the case and the Judgement of the Hon'ble High Court of Calcutta referred in para 7 above, the impugned order dated 21.07.2016 passed by the second respondent is liable to be set aside. Accordingly the same is hereby set aside and quashed. The respondents are directed to reconsider the candidature of the second applicant/son for compassionate appointment on merit based on his own certificates and pass a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order.

12. The OA is disposed of accordingly. No costs.