

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

DATED THIS THE 13th DAY OF MARCH, TWO THOUSAND NINETEEN

PRESENT:

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

OA/310/01368/2017

R. Ramalakshmi
No. 1/297 Durga Colony
Sankarankovil Main Road
South Kurivikulam
Sankarankovil Taluk
Tirunelveli Dist. 627 754.

...Applicant

-versus-


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

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

...Respondents

By Advocates:

M/s. Ratio Legis for the applicant.

Mr. K. Vijayaraghavan, 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 relief:-

"To call for the records related to impugned order No. PB/CS/30/MDU/2010/12 dated 30.12.2016 passed by the 2nd respondent and to quash the same and further to direct the respondents to appoint the applicant on compassionate ground in terms of the mandatory provisions and to pass such other order/orders"

2. The brief facts of the case, as stated by the applicant, are as follows:-

The applicant is the married daughter of the late G. Ramakrishnan. Consequent to G. Ramakrishnan's death in harness his widow had requested for compassionate appointment to the respondents and as against the said request, the respondents have passed the impugned order dated 22.07.2010. The applicant's mother filed an MA 964/2015 to condone the delay of 1142 days in filing OA, challenging the rejection of the claim for appointment on compassionate grounds. The MA was dismissed on limitation and the applicant's mother filed WP No. 29298 of 2016 before the Hon'ble High Court of Madras on appeal. The Hon'ble High Court vide its order dated 06.10.2016 had allowed the writ petition with a direction to the General Manager to consider the case of the applicant herein for appointment and to pass a reasoned order. Accordingly the General Manager has considered the claim of the applicant for compassionate ground appointment in terms of the instructions contained in the Railway Board orders and rejected the claim duly passing a reasoned speaking order. Hence this OA is filed.



3. It is submitted by the applicant that the disagreement by the respondents in offering compassionate appointment to the applicant stating that her mother was not having any minor children is unfounded since one has to be taken care in the old age and any attempt to deny decent and dignified living is in gross violation of Article 21 of the Indian Constitution. Further in the wake of RBE No. 70/2014 dated 08.07.2014 which postulates for consideration of the dependant divorced/widowed daughters for appointment as in the case of married daughters, ignoring daughters on the pretext of marriage would tantamount to discrimination. Hence the impugned order rejecting the claim for compassionate appointment for the reason of marriages taking place when the deceased employee was alive is contrary to the said Railway Board letter.

4. The respondents have filed detailed reply. It is submitted by the respondents that the General Manager can consider married daughter also for compassionate ground appointment provided the married daughter would act as the breadwinner of the bereaved family. If there no other wards to be looked after then there would be no justification for considering married daughter for compassionate appointment. It is further submitted that the widow Smt. Pitchaiammal has also two other married daughters. She is in receipt of family pension of Rs. 8080+Relief payable up to 09.05.2019. The widow has no other dependant children to be taken care of. As such the question of married daughter Smt. R. Ramalakshmi, acting as the breadwinner of the bereaved family does not arise. It is also submitted that the rejection of the claim of the applicant for compassionate ground appointment vide order



dated 22.07.2010 was quashed by the Hon'ble High Court of Madras in W.P. No. 29298/2016, solely on the ground that the said order was passed by an authority who is not competent to pass that order. In compliance of the orders of the Hon'ble High Court of Madras the claim of the applicant was considered by the General Manager and the reasoned order passed by the General Manager was communicated to the applicant through the impugned order herein dated 30.12.2016. The respondent also relied on the decision of the Principal Bench of the Central Administrative Tribunal, New Delhi in OA 424 of 2016 in Ajay Vs Commissioner of Police and Others 2017(3) S.L.J 433 wherein the Principal Bench has delivered the judgment in the above OA after referring the following case laws:

1. Gurmeet Kaur V. The Govt. of NCT of Delhi and Others, OA No. 353 of 2015 (para 4)
2. Umesh Kumar Nagpal V. State of Haryana, 1995 (1) SLJ 229 (SC)=1994(4) SCC 138 (Para 7)
3. Haryana State Electricity Board V. Hakim Singh, 1999(1) SLJ 114 (SC)=1997(8) SCC 85 (Para 8)
4. Director of Education (Secondary) V. Pushpendra Kumar, 1998 (5) SCC 192 (para 9)
5. State of Haryana V. Ankur Gupta, 2004(1) SLJ 507 (SC)=2003(7) SCC 704 (Para 10)
6. Food Corporation of India V. Ram Kesh Yadav, 2008(1) SLJ 7(SC)=2007(9) SCC 531 (Para 11)

It is further submitted by the respondents that the appointment of a married daughter on compassionate grounds is subject to the conditions stipulated in the relevant Railway Board letters and hence the rejection of the claim of the applicant for compassionate ground appointment is valid and hence the respondents have prayed for the dismissal of the OA.



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

6. It is not in dispute that the applicant's mother Smt. Pitchaiammal is in receipt of family pension of Rs. 8080+Relief payable up to 09.05.2019. The applicant's father died on 09.05.2009 and considerable time has elapsed since during which the family has survived. The applicant's mother is residing in her own house and she has no minor children or dependants to be taken care of. The applicant had joined her mother only after her father's death and the other two daughters are also living separately with their husbands. The only survivor of the deceased employee's family is Smt. Pitchaiammal who is in receipt of a decent family pension. The applicant's allegation that she was discriminated against on the ground of marriage is not correct. In terms of Railway Board's clarification vide No.E(NG)II/99/RC-1/ICF/4 dated 30.07.1999/03.08.1999, if there are no other wards to be looked after then there would be no justification for considering the married daughter for compassionate appointment. Further, no bread winner relationship as such exists in the instant case.

7. The Hon'ble Supreme Court in Chief Commissioner, Central Excise & Customs, Lucknow and Ors. V. Prabhat Singh in CA No. 8635 of 2012 decided on 30.11.2012 had held that

"Courts and Tribunals should not fall prey to any sympathy syndrome, so as to issue direction for compassionate appointments, without reference to prescribed norms, Courts are not supposed to carry Santa Claus's big bag on Christmas eve, to disburse the compassionate appointment, to all those who seek a Court's intervention. Courts and Tribunals must understand that every such act of sympathy, compassion and discretion, wherein directions are issued for appointment on compassionate ground, could deprive a really needed family requiring financial support,



and thereby push into penury a truly indigent destitute and impoverished family. Discretion is therefore ruled out. So are misplaced sympathy and compassion."

In as much as there is no essential need of the family, like marriage of a daughter or education of any minor child and the family of the deceased employee was not in an indigent condition and the applicant's mother herein is in receipt of family pension, the applicant is not entitled for any relief from the respondents.

8. In the conspectus of the above facts and circumstances of the case and in view of the Judgement referred to supra, I do not find any merit in the claim of the applicant for grant of the relief as prayed for by the applicant in this OA.

9. In the result, the OA is liable to be dismissed and is accordingly dismissed as devoid of merit, however with no order as to costs.