

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

Original Application No.20/1253/2018

Date of Order: 22.07.2019

Between:

S. Abdul Basha, S/o S. Razak Mia
Aged about 43 years, Gr. C
R/o H.No.19/118, Hanumesh Nagar
Guntakal, Ananthapur District

.... Applicant

AND

1. Union of India rep by General Manager
South Central Railway, Rail Nilayam
Secunderabad – 500 071.

2. The Senior Divisional Personnel Officer
South Central Railway, Divisional Office
Personnel Branch, Guntakal – 518385.

3. The Divisional Railway Manager
Guntakal – 515801, Ananthapur District.

... Respondents

Counsel for the Applicant ... Mr. B. Pavan Kumar

Counsel for the Respondents ... Mr. M. Venkateswarlu, SC for Railways

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. The OA is filed for not providing compassionate appointment to the applicant.

3. Brief facts are that the applicant's father died while working for the respondents organization on 15.1.2003. Applicant's mother preferred an application to consider her son, applicant in the OA, for compassionate appointment. Respondents processed the application and found him to be medically fit vide certificate dated 28.3.2006. At the same time, a complaint was received by the respondents that the SSC certificate produced by the applicant was bogus, which on verification with the Director of Govt. Exams was found to be genuine vide letter dated 28.1.2006. Respondents also filed a criminal case against the applicant for alleged submission of bogus SSC certificate in Crime No 36/2008 and the competent Court has acquitted him of the charge on 11.3.2013. Thereafter, applicant made several representations and the last one was on 31.1.2018. There being no response, OA has been filed.

4. The contentions of the applicant are that he was acquitted in the Criminal Case. Non consideration of the representations made is illegal.

5. Respondents confirm that the applicant's mother has made an application for grant of compassionate appointment to her son, the applicant, on 18.4.2005. Applicant has submitted the SSC certificate

bearing number 760430 which had corrections. Hence, it was sent for verification to the SSC Board, who in turn sought the original certificate for certifying the details. Accordingly, when applicant was directed to submit the original, he produced a duplicate certificate with the number 595071, claiming that the original was lost. Additional Jt. Secretary from the Office of Director of Govt. Exams, AP, Hyderabad confirmed that the certificate was genuine. Based on this report, the case for compassionate appointment was considered and the applicant was subjected for medical fitness and found to be fit. Subsequently, vigilance branch of the respondents took over the case and was informed by the Director of Govt. Exams that both the certificates submitted by the applicant were bogus. Criminal Case was thus lodged for submitting bogus certificates but applicant was not found guilty. Nevertheless, respondents claim that the applicant has not come to the Tribunal with clean hands. Even the widow of the deceased employee has not been a party to the OA, though required. Respondents have cited Hon'ble Supreme Court judgments in regard to compassionate appointment to support their contentions.

6. Heard both the counsel and perused the pleadings on record.

7. I) The applicant was considered for compassionate appointment and was found medically fit too. However, based on a

complaint received by the respondents when the duplicate SSC certificate submitted by the applicant, since original was reported to be lost, was sent for verification it was initially certified to be genuine by the Director of Govt. Exams. However, when the vigilance branch of the respondents organisation took up with the Director of Govt. Exams, it came to light that the applicant appeared in the exams in 2004 and 2005 and when the ICR images of 2004 and 2005 Exam, pertaining to the applicant were mined from the data base and verified, it was found that the identification marks and photos affixed were found to be different. Respondents have filed copies of the images along with the reply statement and on the face of it, the discrepancies pointed out by the respondents are found to be true. Further even the duplicate SSC certificate submitted was found to be fake. Interestingly, mother of the applicant is not a party to the OA since it is she, who has nominated the applicant for compassionate appointment. The discrepancy in the photos and the identification marks in SSC certificates coupled with the fact that the mother is not a party to the OA has put the respondents into doubt as to whether applicant is the son of the widow of the late employee. Moreover, widow being a necessary party and non joining her as a party is fatal to the case. There is a delay of 5 years even in filing the OA since the criminal case was disposed of in 2013. The applicant not lodging the police complaint after losing the certificate is surprising. Respondents

with the above details could have replied to the representations of the applicant. Not doing so is incorrect. However with all the twists and turns the case has gone through, ultimately it is necessary for the respondents to obtain the application forms and the ICR images from the Director of Govt. of Exams and verify as to whether the son of the widow of the late employee has appeared in the exam or was it impersonation.

II) Thus, taking into reckoning the above details and the context in which the criminal court acquitted the applicant in the criminal case, respondents need to make a thorough investigation by obtaining the relevant applications forms and the ICR images from the Director of Exams and thereafter based on the outcome, dispose of the representation made by the applicant on 31.1.2018 for compassionate appointment, by issuing a speaking and well reasoned order within a period of 4 months from the date of receipt of this order. There shall no order as to costs.

III) With the above directions the OA is disposed of.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 22nd day of July, 2019

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