

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.22572 OF 2006

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ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

This Writ Petition is preferred against the order passed by the Central Administrative Tribunal in O.A. No.290 of 2006 dated 01.08.2006. On ground that he was not found medically fit for appointment as a clerk, petitioner was appointed, on compassionate grounds, as a Safaiwala. Aggrieved thereby, he invoked the jurisdiction of the Tribunal. By the order under challenge in this Writ Petition, the Tribunal held that the case of petitioner was that, at the time of joining Group-D post, he had represented he be given Group-C post for which he was qualified; he claimed to have submitted a representation in this regard at the time of joining the Group-D post; he did not produce a copy of such representation; and he had accepted Group-D post without demur. The O.A. was dismissed.

Sri K.S. Murthy, Learned Counsel for the petitioner, would draw attention to this Court to the specific averment in the O.A. that the petitioner had made representation on 15.09.2005 and 25.11.2005 (the date "25.11.2005" was added by hand) to the effect that he was initially offered Group-C post, and that he was being given a Safaiwala post. The petitioner claims to have enclosed a copy of the representation as Annexure 11 to the O.A. It does not appear that the Tribunal has failed to notice the averment that the petitioner submitted a representation claiming that, while he was initially offered Group-C post, he was given a Safaiwala post.

Sri R.S. Murthy, Learned Standing Counsel for the Railways, would contend that no employee can claim compassionate appointment as of right and in the absence of any right being conferred on an employee to claim appointment on compassionate grounds, and as the petitioner has accepted post of Safaiwala without demur, he is not entitled to now turn around and contend that he should have been given a Group-C post on compassionate grounds.

grounds.

The only ground, on which the O.A. was dismissed by the Tribunal, is the petitioner did not produce a copy of the representation. The Tribunal failed to notice that in the O.A. itself, the petitioner refers to representations having been submitted on 15.09.2005 and 25.11.2005. As a representation did appear to have been submitted, the order of the Tribunal necessitates being set aside. The O.A. is remanded to the Tribunal for its consideration afresh in accordance with law. It is made clear that this Court has not expressed any opinion on the entitlement or otherwise of the petitioner for being appointed as Clerk on compassionate grounds.

Sri K.S. Murthy, Learned Counsel for the petitioner, would refer to certain developments subsequent to the dismissal of the O.A, and seeks liberty to bring these facts to the notice of the Tribunal.

Granting liberty as sought for, the Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand dismissed.

RAMESH RANGANATHAN,J

M. SATYANARAYANA MURTHY,J

Date: 16.04.2015
MRKR