

THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 04 .03.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.P.No.518 of 2015

B.Jagannathan

... Petitioner

Vs.

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Campus,
Chennai - 600 104.

2. Union of India,
Rep. by the Chairman,
Indian Railways, Rail Bhawan,
New Delhi.

3. The Divisional Commercial Manager
& Public Information Officer,
Southern Railway,
Thiruchirapalli.

4. The Senior DPO,
Regional Office,
Southern Railway,
Thiruchirapalli.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for a writ of certiorari, calling for the concerned records relating to the Order dated 20.02.2013 given in O.A.No.1308 of 2011 passed by the first respondent and quash the same.

For Petitioner : Mr.S.Ramaswamy Rajarajan

For Respondents 2 to 4 : Mr.V.G. Sureshkumar
R1 Tribunal

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Challenge in this writ petition is to an order made by the Central Administrative Tribunal, Madras, in O.A.No.1308 of 2011 dated 20.02.2013 by which, the tribunal has declined the prayer of the petitioner.

2. Facts deduced from the material on record are that the writ petitioner's father K.Balasubramaniam died on 18.02.2009, while he was in service as Station Superintendent, Southern Railways at Nagapattinam, leaving behind his wife, two sons and daughter. Writ petitioner is the 1st son of the deceased employee through his 1st wife Smt.C.Vijayalakshmi, who got divorce from the deceased employee on 22.08.1981. Second wife Theinmozhi is an illiterate person and her daughter is married. Her son is studying in Standard IX.

3. The Writ petitioner was residing with his mother C.Vijayalakshmi and he is a M.Tech Degree Holder. After the demise of his father, he and his mother made representations to the respondents on 14.05.2009, 16.06.2009 and 27.07.2009, respectively, requesting for employment assistance on compassionate grounds. The respondents neither considered nor rejected the request. Hence, he filed O.A.No.1308 of 2011 on the file of the Central Administrative Tribunal, Chennai, for a direction to the respondents to consider the representations dated 14.05.2009, 16.06.2009 and 27.07.2009, respectively, within the time frame.

4. Upon entering appearance, the respondents have filed their counter affidavit stating that the writ petitioner's mother was an employee in the Revenue Department of Government of Tamilnadu. After her retirement, she had not taken any steps to get the writ petitione''s name included in the family pension of the late K.Balasubramaniam, the deceased Station Superintendent. Appointment on Compassionate Grounds cannot be claimed as a matter of right. Each case has to be decided on its merits. Contending inter alia that the family of the deceased servant does not suffer indigent circumstances, respondents have prayed for dismissal of the Original Application.

5. Considering the short point as to whether, the writ petitioner is entitled for employment assistance on compassionate grounds, after extracting the scheme providing for employment assistance and recording a finding that the family is not in indigent circumstances, the Central Administrative Tribunal,

Madras vide order in O.A.No.1308 of 2011 dated 20.02.2013, dismissed the Original Application.

6. Being aggrieved by the same, the petitioner has contended that the Original Application was only to dispose of the representations stated supra, but the tribunal has exceeded its jurisdiction in recording a finding that the family of the writ petitioner is not in indigent condition warranting employment assistance, solely on the basis of the reply of the respondents.

7. To sustain the order of the Central Administrative Tribunal, respondents 2 to 4 in their counter affidavit to the writ petition, have submitted that mother of the writ petitioner was a Revenue Divisional Officer in Government of Tamilnadu and therefore, when the said fact was taken note of by the tribunal, it cannot be said to be untenable or for the matter that the tribunal had exceeded in its jurisdiction, as to whether a mere representation has to be considered, de hors, the factum of employment of the writ petitioner's mother, to decide the entitlement of the petitioner, to seek for consideration of the representation.

8. Counter affidavit also reads that there is a dispute between the wives regarding the entitlement and disbursement of the amounts due and payable to the deceased K.Balasubramanian. The petitioner has not established his case that he was depending on his father late K.Balasubramaniam, at the time of his demise. It is also stated that the petitioner himself has admitted that he is in receipt of annual income of Rs.84,000/- by way of private tuition. On the abovesaid grounds, the respondents have prayed for dismissal of the writ petition.

Heard the learned counsel for the parties and perused the materials available on record.

9. Mr.K.Balasubramaniam, died on 18.02.2009, is survived by Mr.B.Jaganathan, the writ petitioner, son of the deceased servant through his 1st wife Mrs.C.Vijayalaksmi, Smt.Banupriya, daughter of the 2nd wife Thenmozhi, and Sasikumar, then aged about 14 years, 2nd son. Suit in O.S.No.23 of 2006, is stated to be pending on the file of the learned Principal Sub Judge, Tiruchirapalli. Contention of the respondent that the petitioner's mother was employed in Revenue Department of Government of Tamilnadu, and retired as Revenue Divisional officer, has not been disputed. Further, contention of the department that the writ petitioner himself has admitted that he is in receipt of income of Rs.84,000/- per annum, by way of private tuition is not disputed.

10. The scheme of the employment assistance as extracted in the impugned order made in O.A.No.1308 of 2011 dated 20.02.2013 is as follows:-

"the object of scheme is to grant appointment on Compassionate Grounds, to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency."

11. As rightly observed by the tribunal, family of Mr.K.Balasubramaniam, cannot be said to have been in indigent circumstances, when the petitioner's mother was employed and retired as Revenue Divisional Officer in the Government of Tamilnadu. Representations seemed to have been made on 14.05.2009, 16.06.2009 and 27.07.2009 respectively, when the petitioner's mother was in service. She is stated to have expired on 23.04.2014. As rightly observed by the tribunal, employment assistance on Compassionate grounds cannot be claimed as a matter of right and each case has to be decided on its merits, by considering the family including the financial condition of the family.

12. Directions need not be issued for mere asking. Tribunal / Court is empowered to decide as to whether the petitioner has made out a case for issuance of such directions. There is no manifest illegality in the order of the tribunal, dismissing the Original Application, filed to consider the representations. In the light of the above, the writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

ars/skm

To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Campus,
Chennai - 600 104.

2. The Chairman,
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3. The Divisional Commercial Manager
& Public Information Officer,
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1 cc to M/s.V.G. Sureshkumar, Advocate, Sr. 14424

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AK (CO)
kk 15/4



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