

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 03.01.2017

Coram

The Honourable Mr. Justice K.K.SASIDHARAN
and
The Honourable Mr. Justice V.PARTHIBAN

W.P.No.36 of 2017

D.Saravanan

.. Petitioner

Versus

1. Union of India, represented by
The Chairman Railway Board,
Rail Bhavan, Ministry of Railways,
New Delhi.

2. The General Manager,
Southern Railway,
Park Town, Chennai-3.

3. The Chief Personnel Officer,
Southern Railways,
Park Town, Chennai-3.

4. The Senior Divisional Personnel Officer,
Chennai Division, Southern Railway,
Park Town, Chennai-3.

5. The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.

.. Respondents

Prayer: This Writ Petition is filed under Article 227 of the Constitution of India, praying for issuance Writ of Certiorarified Mandamus, to call for the records relating to 5th respondent/Tribunal order made in O.A./310/01475 of 2014, dated 31.3.2016, quash the same and consequently direct the respondents 1 to 4 to appoint the petitioner on compassionate ground as prescribed in the relevant mandatory provisions.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.P.T.Ramkumar
Standing counsel for R1toR4

ORDER

(Order of the Court was delivered by V.PARTHIBAN, J.)

The present Writ Petition has been filed against the order passed by the 5th respondent/Central Administrative Tribunal (in short, 'the Tribunal'), dismissing the Original Application in O.A.No.310/01475 of 2014 filed by the petitioner, seeking a direction to the respondents 1 to 4 to provide him appointment on compassionate grounds.

2. The petitioner claims to be the adopted son of the deceased K.Duraiswamy, who worked as Senior Trackman in Southern Railway and died in harness on 09.08.2003. On his death, the petitioner who claims to be the adopted son, had applied for compassionate appointment and the same was rejected as early as on 31.03.2008 and once again on 17.9.2012. Aggrieved by the same, the petitioner approached the learned Tribunal, seeking a direction to the respondent employer for consideration of his appointment on compassionate grounds in terms of the relevant scheme and Rules.

3. Resisting the claim of the petitioner, the Department contended that the status of the petitioner as adopted son of the deceased employee was not established and had not been recognized by the Department and any retirement dues which were paid to the petitioner was only on the basis of the nomination made by the deceased employee and such nomination did not ipso facto establish the status of the petitioner as adopted son of the deceased employee. Moreover, it was also found that the petitioner was only member left by the deceased employee who was 41 years of old and there was no other member, dependant of the deceased employee. Being 41 years of old adult, the petitioner could always look after himself and further, the employee who died in harness, was aged 56 years and a very short span of service left for his superannuation.

4. After taking note of the pleadings and submissions made by the parties, the learned Tribunal dismissed the application after extracting the contents of the rejection letter in its order in para 6, which clearly spelt out that the writ petitioner was not entitled to consider for compassionate appointment as there was no other surviving family member of the deceased employee and the petitioner having been paid a sum of Rs.2,21,998/- towards retirement benefits of the deceased employee. Therefore, in all fours, the learned Tribunal held that it was not a fit case for consideration to grant the relief as sought for.

5. As against the decision of the learned Tribunal, the present Writ Petition has been filed by the petitioner.

6. Mr.L.Chandrakumar, learned counsel appearing for the petitioner strenuously contended that the petitioner deserves for consideration to the compassionate appointment notwithstanding the above stated position.

7. From the perusal of the records, materials, pleadings and the order passed by the learned Tribunal, it could be seen that there was not even an iota of scope for consideration of the claim of the writ petitioner for compassionate appointment. As by no stretch of legal standards, his claim can be countenanced with reference to the scheme for compassionate appointment. A compassionate appointment cannot be claimed as a matter of statutory right unless the person who claims for such consideration, must unequivocally demonstrate that he/she was the family member of the deceased and placed in a pitiable position suffering from penury and indigent circumstances. In the instant case, no such circumstances, warranting the consideration of the petitioner for compassionate appointment, were established. Therefore, we do not find any scope to interfere with the order passed by the learned Tribunal.

8. In view of the above, the Writ Petition fails and it is dismissed as devoid of merits. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Chairman Railway Board,
Union of India,
Rail Bhavan, Ministry of Railways,
New Delhi.

2. The General Manager,
Southern Railway,
Park Town, Chennai-3.

3. The Chief Personnel Officer,
Southern Railways,
Park Town, Chennai-3.

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Chennai Division, Southern Railway,
Park Town, Chennai-3.

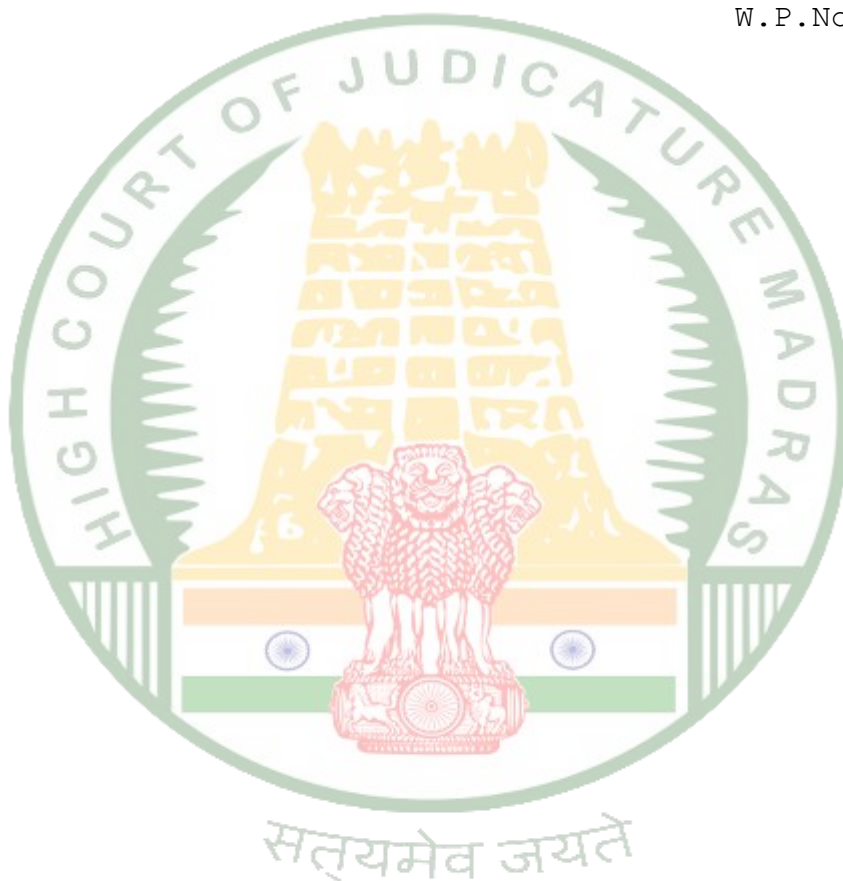
5. The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.

+1 cc to M/s.L.Chandrakumar, Advocate,sr.353

+1 cc to M/s.P.T.Ramkumar,advocate,sr.981.

gmi (co)
krd 31/1

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