

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.26078/2019 & WMP.No.25451/2019

Mrs.Sarojinidevi

..

Petitioner

Versus

1.The Union of India
represented by the Chairman
Railway Board, Rail Bhavan
New Delhi, New Delhi 110 023.

2.The General Manager
Southern Railway
Park Town, Chennai 600 003.

3.The Divisional Personal Officer
Divisional Office, Confidential section
Southern Railway, Madurai.

..

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 3rd respondent in No.U/P353/OA./1247/14 dated 19.07.2016 on the order of the learned Central Administrative Tribunal, Chennai Bench, dated 01.10.2018 made in OA.No.310/00565/2017 and quash the same and consequently, direct the respondents to forthwith appoint the petitioner on compassionate ground.

For Petitioner : Mr.K.Raja

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

- (1)The request made by the petitioner herein, seeking appointment on compassionate ground on the demise of her father-in-law came to be rejected and the said order was also sustained in a challenge made by her by filing OA.No.565/2017 before the Central Administrative Tribunal, Chennai Bench and challenging the legality of the order, came forward to file the present writ petition.
- (2)The facts leading to the present litigation, have been narrated in detail and in extenso in the impugned order, which is the subject matter of challenge and therefore, it is unnecessary to restate the facts once again.
- (3)The father-in-law of the petitioner, viz., Thiru.V.S.Gopinathan, while working as SS/POY died in harness on 22.06.2003, leaving behind his wife, 2 sons and a daughter and one of the sons, viz., Thiru.S.G.Saravanakannan, is the husband of the petitioner herein. The mother-in-law of the petitioner, originally, nominated the husband of the petitioner, viz., Thiru S.G.Saravanakannan, and on medical examination, he was found unfit. Subsequently, the brother-in-law of the petitioner, viz., Mr.S.G.Srinivasarengan, also made a claim and subsequently,

withdrawn his application on the ground that he got employment in abroad.

(4) It is the specific case of the petitioner that since the elder son of her mother-in-law, got settled in abroad and that her husband also died subsequently on account of illness, there is nobody to support her and her family and that apart, she is also prepared to give an undertaking that in the event of she being offered with employment on compassionate ground, she would take care of her mother-in-law also.

(5) The petitioner initially filed OA.No.1247/2014, calling for the records of the proceedings of the Divisional Personnel Officer, Confidential Section, Madurai, dated 03.09.2013 as well as the consequential proceedings dated 12.06.2014 and to quash the same and consequently, direct the respondents therein to appoint her on compassionate ground as per the qualification.

(6) The Tribunal, vide order dated 19.02.2016, had set aside both the proceedings with a further direction, directing the respondents to consider her case as a near relative and deal with the same on merits and in accordance with law. Accordingly, her claim was considered and the 3rd respondent, vide impugned communication dated 19.07.2016, has rejected the said request and making a challenge to the same, she filed

OA.No.565/2017 before the Central Administrative Tribunal, Chennai Bench and it was entertained and notices were ordered.

(7)The 3rd respondent has filed a counter/reply statement, wherein, it has been averred among other things that the brother-in-law of the petitioner herein, viz., Thiru S.G.Srinivasarengan, who is the elder son of the deceased V.S.Gopinathan, by letter dated 11.08.2009 had objected for giving employment on compassionate ground to the husband of the petitioner herein and subsequently, vide letter dated 21.03.2011, he had consented for offering employment to his younger brother/husband of the petitioner herein as he got an offer of appointment abroad and accordingly, the case of the petitioner's husband was considered and since he was found medically unfit, his claim was not considered and after his demise, his wife/petitioner herein, has submitted a representation dated 05.08.2013 seeking compassionate ground appointment in her favour and initially it was rejected and challenging the same, she filed O.A.No.1247/2014 wherein the Tribunal had set aside the impugned two proceedings with a further direction, directing the official respondents therein to consider her claim as a near relative and dispose of her representation seeking compassionate ground appointment on merits and in accordance with law and accordingly, it was considered and rejected. The 3rd respondent, on the legal plea, has placed reliance upon the

judgment of the Hon'ble Supreme Court of India dated **23.04.2012** in **UNION OF INDIA AND ANOTHER VS. SHASHANK GOSWAMI AND ANOTHER**, and took a stand that appointment on compassionate ground, cannot be claimed as a matter of right and it is not another source of recruitment and the only consideration is indigent circumstances of the family and in the light of the fact that the father-in-law of the petitioner had died in the year 2003 and the petitioner herself had submitted a representation / application only during the year 2013, nearly after a lapse of ten years, it cannot be said that she continues to be under indigent circumstances and prayed for dismissal of the Original Application.

(8)The Tribunal has taken into consideration, the facts and circumstances as well as the rival submissions and found that subsequently, the mother-in-law of the petitioner herein also took a contra stand in respect of nomination of her daughter-in-law for seeking appointment on compassionate ground and therefore, it is not for the Tribunal, to enter into the family dispute as to whether the mother-in-law was justified in withdrawing her earlier letter seeking compassionate ground appointment for her daughter-in-law / petitioner herein and proposing the same now for her elder son. The Tribunal, having noted that there is no illegality or infirmity in the reasons assigned by the 3rd respondent for rejecting the petitioner's request, dismissed OA.No.565/2017 vide impugned order

dated 01.10.2018 and challenging the legality of the same, the present writ petition is filed.

(9)Mr.K.Raja, learned counsel for the petitioner would forcefully submit that in the light of the earlier order passed by the Tribunal, in OA.No.1247/2014, the petitioner being the daughter-in-law of [late] Thiru. V.S.Gopinathan, is to be considered as near relative and also pointed out the fact that her husband was initially considered to be appointed on compassionate grounds and later on, found to be unfit on medical grounds and he has also subsequently died and as such, her family is also left in lurch and would also give an undertaking that in the event of the petitioner being given appointment on compassionate ground, she would take care of her mother-in-law also and hence, prays for interference.

(10)Learned counsel for the petitioner, in support of his submissions, has placed reliance upon the judgment reported in ***CDJ 2016 CH HC 119 [DULIYA BAI YADAV VERSUS STATE OF CHHATTISGARH AND OTHERS]*** as well as the order of the Principal Bench of the Central Administrative Tribunal dated 29.02.2012 ***[SUNITA MANN V. DELHI POLICE THROUGH THE COMMISSIONER OF POLICE, POLICE HEAD QUARTERS, IP ESTATE, NEW DELHI AND ANOTHER]***.

(11) This Court paid its anxious consideration and best attention to the arguments advanced by the learned counsel for the petitioner and also perused the materials placed before it.

(12) Though the petitioner, being the daughter-in-law of late Thiru V.S.Gopinathan, can be considered as a near relative, the fact remains that the immediate person who would be affected is the widow, viz., the wife of late Thiru V.S.Gopinathan and though the husband of the petitioner was initially nominated to get employment on compassionate ground, he was found to be unfit on medical grounds and unfortunately, he breathed his last. Thereafter, the elder son of late Thiru V.S.Gopinathan, viz., Thiru.S.G.Srinivasarengan, made a claim and subsequently, he withdrew his candidature on account of the fact that he got employment in abroad. The mother-in-law of the petitioner had submitted her application seeking compassionate ground appointment for her daughter-in-law/petitioner herein on 21.10.2013 nearly after 10 years after the demise of her husband and it was initially rejected and subsequently, the impugned orders were set aside by the Tribunal in OA.No.1247/2014 with a further direction to consider the petitioner's claim on merits and in accordance with law and give a disposal and accordingly, vide impugned order dated 19.07.2016, it came to be rejected.

(13)The narration of the facts given in the impugned order, which is the subject matter of challenge in this writ petition would disclose that the mother-in-law of the petitioner, had subsequently changed her mind and once again, nominated her elder son for compassionate ground appointment. The Tribunal has also noted the fact that it is an *inter se* dispute between the mother-in-law and daughter-in-law and it cannot interfere with the family disputes.

(14)It is also a well settled position of law as enunciated by the Hon'ble Apex Court, in a catena of decisions that the compassionate ground appointment is not a source of employment and the main criteria for offering such employment is to tide over the immediate financial crisis. Admittedly, the mother-in-law of the petitioner had nominated the petitioner seeking appointment on compassionate ground only on 21.10.2013, nearly 10 years after the demise of her husband on 22.06.2003.

(15)It is to be noted at this juncture that the person really aggrieved on account of the demise of late Gopinathan is his wife-mother-in-law of the petitioner and though the learned counsel for the petitioner would submit that the petitioner, on account of the demise of her husband is suffering very much, in the considered opinion of this Court, the sympathy cannot be translated into a positive order in her favour.

(16) This Court, on an independent appraisal and consideration of the facts and circumstances and the arguments advanced by the learned counsel for the petitioner, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the Tribunal in dismissing the Original Application and finds no merit in this writ petition.

(17) In the result, the writ petition stands dismissed in the admission stage itself. No costs. Consequently, the connected miscellaneous petition is also closed.

[MSNJ] [NSSJ]
09.09.2019

Internet : Yes
Speaking Order : Yes
AP

To
1. The Chairman
Union of India
Railway Board, Rail Bhavan
New Delhi, New Delhi 110 023.

2. The General Manager
Southern Railway
Park Town, Chennai 600 003.

3. The Divisional Personal Officer
Divisional Office, Confidential section
Southern Railway, Madurai.

WP.No.26078/2019

M.SATHYANARAYANAN, J.,
AND
N.SESHASAYEE, J.,

AP



WP.No.26078/2019

09.09.2019

WEB COPY