

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.48207 OF 2018

ORDER

This writ petition is filed seeking the following relief:

“...to issue an order or direction, more particularly one in the nature of Writ of Mandamus by declaring the action of the respondent No.2 & 3 in rejecting the petitioner claim for appointment on compassionate grounds on the death of petitioner father late Joseph Susai Ex-Call boy SS/SC who died on 15-12-2008 vide their Letter No.SCR/P-SC/122/ACG/68/2009, dated 19.1.2018 issued by the respondent No.3 is illegal, arbitrary, violative of Articles 14, 21 and 300-A of the Constitution of India and consequentially direct the respondent No.2 & 3 to consider the petitioner claim for appointment on compassionate grounds in the South Central Railway upon the death of petitioner father late Joseph Susai who died on 15.12.2008 while in service by suspending the rejection Letter No.SCR/P-SC/122/ACG/68/2009 dated 19.1.2018 issued by the respondent No.3 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri G.Ravichandran, learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that her father was employed with the respondent-railways as Ex-Call boy and while working in the office of SS/SC/O/SC SCR Secunderabad, he expired on 15.12.2008. Her mother was granted pensionary benefits of the deceased husband. Thereafter, the petitioner has submitted an application on

26-10-2012 seeking appointment on compassionate grounds.

The respondents *vide* letter dated 19.1.2018 rejected her case on the ground that the agreement of marriage between her parents is not a complete and valid document and the deceased employee is a divorcee and hence, the question of considering the case of the petitioner does not arise.

Learned counsel appearing for the petitioner contends that details of marriage between the parents of the petitioner were entered in the Service Register; that the respondents have granted pension in favour of the mother of the petitioner by duly taking into consideration these aspects; and that the respondents cannot be allowed to take a fresh ground that the marriage between the parents of the petitioner is not valid at this length of time and more so, the respondents have sanctioned the pensionary benefits to the mother of the petitioner; and that appropriate orders be passed directing the respondents to consider the case of the petitioner for appointment on compassionate grounds.

Learned Standing Counsel appearing for the respondents submits that the reasons assigned in the impugned rejection order are valid since no documentary evidence has been produced by the petitioner to demonstrate that the petitioner's father had married her mother and in the absence of the same, the case of the petitioner cannot be

considered for appointment on compassionate grounds and the writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the deceased employee had entered the details of the petitioner and her mother in the Service Register and it can be reflected in the Identity Card and Medical Card issued by the respondents and more so, the respondents have granted pension in favour of the mother of the petitioner. Now, the respondents cannot doubt about the validity of the marriage between the parents of the petitioner. The impugned rejection order was passed without application of mind and hence, the same is liable to be set aside.

Accordingly, the impugned rejection order 19-1-2018 is set aside and the Writ Petition is disposed of directing the respondents to consider the case of the petitioner on compassionate grounds, in accordance with Rules and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

3rd January, 2019
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