

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.02.2020

DELIVERED ON : 28.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.NO.4488 OF 2020

Selvi Nunna Siva Priya

...Petitioner

vs.

1. Union of India, Represented by,
The General Manager, Southern Railways,
Park Town, Chennai - 600 003.
2. The Chief Personnel Officer,
Southern Railways,
Park Town, Chennai - 600 003.
3. The Senior Divisional Personnel Officer,
Chennai Division, Southern Railways,
Park Town, Chennai - 600 003.
4. The Registrar,
Central Administrative Tribunal,
City Civil Court Buildings,
Chennai - 104.

...Respondents

Prayer:

Writ Petition filed under Article 226 of Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the order of the 4th respondent in OA/310/01332/2016 dated 03.05.2017 and the order made in RA/310/00018/2017 dated 15.11.2019 and to quash the same and consequently direct the respondents to appoint the petitioner on compassionate ground in any one of the eligible post with all consequential benefits.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.P.T.Ramakumar,
Standing Counsel for R1 to R3

O R D E R
(Order of the Court was made by R.HEMALATHA, J.)

This writ petitioner has challenged the orders of the Central Administrative Tribunal, Madras Bench in OA/310/01332/2016, dated 03.05.2017 and that in RA/310/00018/2017, dated 15.11.2019 rejecting the claim of the petitioner to get compassionate appointment consequent upon the demise of her foster father.

2. Quickly through the facts of the case:

One Srinivasa Rao working as Technician II/SSE/PSI/SPE expired on 19.06.2005 due to heart attack. He was unmarried at the time of his death and had adopted his brother's daughter who was 7 years old through the adoption deed dated 01.06.2005. After his demise, all the terminal benefits were settled to her including the family pension vide PPO.No.0602236485, dated 27.12.2006. On 21.10.2011, a representation was made on her behalf for compassionate appointment which was rejected vide order dated 05.03.2013 citing the reason "no dependency existing". She was only 17 years old then. She approached the Central Administrative Tribunal, Madras Bench in OA.No.333 of 2015 which directed the employer/respondent to make an objective assessment as per the prescribed procedure and pass a speaking order. The respondents rejected the claim once more after an objective assessment vide order dated 20.06.2016. Aggrieved over this order, OA/310/01332/2016 was filed before Central Administrative Tribunal, Madras Bench. The Central Administrative Tribunal, Madras Bench while dismissing this Original Application, opined that the reasoning of the respondents suffered no infirmity. According to the respondents, the adoption took place only days before the demise of Srinivasa Rao and that he was a bachelor till then with no dependants. The terminal benefits were no doubt, settled to the adopted daughter, the petitioner, only because of the guardianship order passed by the learned District Judge, Ongole, in GWOP.No.5 of 2006 filed by her biological father. Presently, the petitioner is living with her biological parents and as such no dependency existed. Thus, the Original Application was dismissed. The petitioner appealed for review of this order in RA/310/00018/2017 which again was dismissed. The Central Administrative Tribunal, Madras Bench did not find any merit in the appeal. Hence, this Writ Petition challenging both the orders.

3. Mr.L.Chandrakumar, learned counsel for the petitioner would contend that the Central Administrative Tribunal, Madras Bench had erred in understanding the basic concept of compassionate appointment. According to him, the petitioner has been left 'high and dry' after the demise of her foster father,

especially, after she attained the age of 25 years as the family/dependant pension ceased. His further contention is that when the adoption was legal and had the approval of the Court, as per its order in GWOP.No.5 of 2006, the respondents as well as the Central Administrative Tribunal, Madras Bench had grossly erred by not taking cognizance of the legal position of the petitioner. The object of any compassionate appointment is to assist any family in penury, consequent upon the sudden demise of the Government Servant. It is intended to relieve the family from financial destitution and help them tide over this crisis. These underlying principles, it was contended, were just brushed aside by the respondents and the Central Administrative Tribunal, Madras Bench and therefore required a judicial intervention in the present Writ Petition. The learned counsel for the petitioner also contended that in the review with the Debts Recovery Appellate Tribunal opportunity was not afforded for adducing fresh evidence to support their contention.

4. Mr.P.T.Ramakumar, learned standing counsel for the respondents 1 to 3 had categorically stated that the whole adoption process was only to get the terminal benefits and the petitioner hardly lived with her deceased uncle even after the adoption. The settlement of terminal benefits, it was contended that, had nothing to do with objective assessment for compassionate appointment. It was further contended that the petitioner had no dependants and she was paid the family pension till she attained 25 years of age. It was also contended by the learned counsel for the respondents that neither the original order nor the review order of the Central Administrative Tribunal, Madras Bench suffered any deficiency and were perfect as per settled law in the subject. Hence, he prayed for dismissal of the petition.

5. It is well settled that the compassionate appointment cannot be claimed as a matter of right after certain period when the crisis is over. In the instant case, as rightly pointed out by the learned counsel for the respondents 1 to 3, the 'adoption' itself appears to have been executed to circumvent the law. Had the adoption not taken place before the demise of Srinivasa Rao, the family pension would not have been granted. That the petitioner had her biological parents and that she was living with them are all so evident that there cannot be any justification to explain the same. However, it is true that the deceased Srinivasa Rao had no dependants and his only 'legal heir' was duly recognized and paid all the terminal benefits including family pension. She also has no dependants to warrant the grant of compassionate appointment. The only reason which is being harped on by the petitioner is the apparent cessation of the family pension. The Central Administrative Tribunal, Madras Bench had rightly observed in the OA/310/ 01332/2016 that

the respondents had made an objective assessment of the claim of the petitioner for compassionate appointment and it cannot be faulted with.

6. The Central Administrative Tribunal, Madras Bench in its review order went one step further by reproducing a portion of an order by the Hon'ble Apex Court in Northern India Caterers Ltd., vs. Lt. Governor of Delhi reported in (1980) 2 SCC 167. It reads as,

"A plea for review, unless the first judicial view is manifestly distorted is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result."

This applies to this Writ Petition also. Optimism has a limit. It cannot be unrestricted. It cannot be without basis. There are no merits in this Writ Petition for this Court to go into.

7. In the result, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The General Manager,
Union of India,
Southern Railways,
Park Town,
Chennai - 6000 003.
2. The Chief Personnel Officer,
Southern Railways,
Park Town, Chennai - 600 003.
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+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.17634

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NR (CO)
CS/29/05/2020



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