



WP No.14386 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

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Smt.M.Vasanthi

... Petitioner

versus

1.Union of India

Represented by the General Manager,
Southern Railway,
Park Town,
Chennai.

2.The Divisional Personnel Officer,

Tiruchchirappalli Division,
Southern Railway,
Trichy.

3.The Registrar,

The Central Administrative Tribunal,
Madras Bench,
Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the order of the third respondent made in OA No.1378 of 2017 dated 22.01.2019 to quash the same and to consequently direct the respondents 1 and 2 to grant appointment to the petitioner's daughter on compassionate grounds.

For the Petitioner :Ms.N.R.Jasmine Padma

For the Respondents :Mr.P.T.Ramkumar
Standing Counsel for respondents 1 and 2
third respondent-Tribunal

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

Challenging the order in OA No.1378 of 2017, dated 22.01.2019, passed by the Central Administrative Tribunal, the petitioner has filed the present writ petition.

2. Brief facts of the case:

2.1. The petitioner is the wife of one R.Mohanraj, who was working as Tech.Gr.I. in the respondent Department and died in harness on 22.10.2014, leaving behind the petitioner, one married daughter and a



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widowed mother. Thereafter, the petitioner has submitted an application on 20.05.2016, along with all mandatory documents to the respondent Department seeking employment for her married daughter, namely M.Malini, on compassionate grounds. In the said application, the petitioner has also stated that after the demise of her husband, the Welfare Inspector, who belongs to the concerned division has submitted a report to the second respondent recommending compassionate appointment to her married daughter. The respondent Department, without accepting the report of the Welfare Inspector, dated 16.12.2015, has passed an order dated 17.11.2016, rejecting the claim of the petitioner, by stating that the competent authority viz General Manager has rejected the request for appointment on compassionate grounds in favour of her married daughter as the married daughter is fully independent for all her needs. Challenging the said order dated 17.11.2016, the petitioner has filed an Original Application in OA No.1378 of 2017 before the Tribunal.



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2.2. The Tribunal, by order dated 22.01.2019, dismissed the said OA holding as follows: *“As it is not in dispute that the applicant's married daughter is independent and the applicant herself is in receipt of a reasonable family pension to take care of herself and as there is no other surviving member of the family of the deceased employee, I am not inclined to interfere with the impugned order dated 17.11.2016. OA is dismissed as devoid of merits.”* Challenging the said order passed by the Tribunal, the petitioner has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submits that as per Master Circular-16, which is a compendium on compassionate grounds issued under Railway Board's letter No.E (NG) II/90/RC-1/117 dated 12.12.1990 provides for compassionate ground appointments to the dependants of Railway servants who lose their lives in the course of duty or die in harness otherwise while in service or are medically incapacitated/decategorised. Therefore, Master Circular -16 does not bar a married daughter from claiming appointment on compassionate grounds. He further submits that in



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view of Master Circular -16, the petitioner's daughter is fully eligible for appointment as she is depending upon the income of the deceased employee, her father.

4. Learned counsel for the petitioner further submits that even though the daughter of the petitioner is married, they all are living under the same roof as there is no adequate income for the daughter's husband. Therefore, as per the guidelines of Master Circular 16, the petitioner's daughter is also entitled for compassionate appointment. All these aspects have not been properly considered by the Tribunal and the Tribunal dismissed the said OA filed by the petitioner. Hence he seeks for setting aside the order of the Tribunal and allowing the writ petition.

5. Mr.P.T.Ramkumar, learned Standing Counsel for the respondents 1 and 2 vehemently objected to the submissions made by the learned counsel for the petitioner by stating that the recommendation made by the Welfare Inspector has not been accepted by the General Manager of the Division,



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who is the competent authority to consider appointments on compassionate grounds. Further, the claim of the petitioner seeking appointment for her daughter on compassionate grounds was rejected not because of her marital status but for the reasons that she does not fulfil the criteria laid down by the Railway Board for offering compassionate appointment.

6. Heard the parties and perused the materials available on record.

7. On a perusal of the facts in the present case, it is seen that the Welfare Inspector has recommended the name of petitioner's daughter for appointment under the compassionate scheme but the same was rejected by the first respondent/General Manager without any relevant materials or records to substantiate such rejection. Further, no opportunity was granted to the petitioner by the respondent Department before rejecting the application submitted by her seeking compassionate appointment for her married daughter. Therefore, on this short ground, the said order passed by the first respondent/General Manager is liable to be set aside. The Tribunal



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ought to have considered the above ground while dismissing the said OA.

Therefore, we have no hesitation to set aside the order of the Tribunal and remit back the matter to the second respondent to consider afresh.

8. In view of the above, we are inclined to interfere with the order of the Tribunal. Consequently, the impugned order passed by the Tribunal in OA No.1378 of 2017 dated 22.01.2019 is set aside and the matter is remitted back to the second respondent to consider the claim of the petitioner afresh after providing opportunity to the petitioner. It is needless to say that, if the petitioner wants to place/produce any additional particulars, the same shall also be placed before the authority, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said additional particulars, the second respondent shall consider the same and pass appropriate orders, as early as possible, within a period of 12 weeks thereafter.



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9. With the above directions/observations, the Writ petition stands allowed. There will be no order as to costs.

[D.K.K., J.] [P.D.B., J.]

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Index : Yes/No
Neutral Citation : Yes/No
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