



W.P.No.4610 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.P.No.4610 of 2024

S.Gnanambigai

... Petitioner

Vs.

- 1.Union of India,
Rep. By the Principal Chief,
Personnel Officer/R&W,
Southern Railway,
HQ Office, Personnel Branch,
Chennai – 600 003.
- 2.Union of India,
Rep. By the Senior Deputy Personnel,
Officer/MAS, Southern Railway,
Divisional Railway Manager's Office,
Personnel Branch, Chennai Division,
Chennai – 600 003.
- 3.Union of India,
Rep. by the General Manager,
Southern Railway,
Divisional Railway Manager's Office,
Personnel Branch, Chennai Division,
Chennai – 600 003.

... Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of original application in O.A.No.310/00297/2020 and order passed by the Hon'ble Central Administrative Tribunal dated 16.02.2023 and quash the same as illegal and unauthorised and pass orders as per the provisions of the Act and direct the respondent to give employment to the petitioner on compassionate grounds.

For Petitioner : Dr.A.Thiyagarajan
Senior Counsel
for Mr.S.Rameshkumar

For Respondents : Mr.A.Kumaraguru
Senior Panel Counsel

ORDER

[Order of the Court was made by R.SURESH KUMAR, J.]

This writ petition has been filed against the order passed by the Central Administrative Tribunal, Chennai Bench made in O.A.No.310/00297/2020 dated 16.02.2023.

2. That the writ petitioner's husband was working in the respondent Department as he joined in service in 1978 and after having worked for several years died in harness on 23.09.2015 just 9 months prior to his retirement as he was due to retire on 30.06.2016.



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3. After the death of the husband of the petitioner, a retiral benefits of Rs.13,96,580/- paid to her and thereafter the petitioner also is getting a revised pension of Rs.19,600/- per month as per the VII Pay Commission, apart from that the family is getting the rental income of Rs.7,000/- per month.

4. There were two children i.e., one daughter and son. In fact, the daughter and son are well grown up as the daughter is 37 years old and son is 33 years old, both of them have married and settled in their life. As far as the son viz., Sathish is concerned, in whose favour application had been made by the petitioner to seek for compassionate appointment, having the qualification of D.E.C.E., B.E. and (E&I), MBA has been working in a Private Company and earning a sum of Rs.27,000/- as a monthly salary and he is also settled in life as he got married and they have a child of 3 ½ years old, in this background when the application was submitted by the writ petitioner before the respondent seeking compassionate appointment to his son Sathish, the same has been rejected by order dated 21.11.2018, challenging the same the petitioner/applicant filed the said O.A. before the Tribunal.



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5. The Central Administrative Tribunal also having considered the relative merit as projected by both sides, has come to the conclusion that, the 'family composition' consisting of three persons are all settled as there has been a source of income for everyone of the family, when that being the position, the family cannot be said to be in penurious circumstances.

6. The Tribunal also has held that, the compassionate appointment is not a source of recruitment and the same cannot be offered without investigation.

7. As against the said order passed by the Tribunal in rejecting the said Original Application, the present writ petition has been filed.

8. Heard Dr.A.Thiyagarajan, learned Senior Counsel appearing for the petitioner who has pointed out that, with the said qualification the son of the deceased employee even according to the stand of the respondent Department, if he is only earning Rs.27,000/- per month, it is not a handsome amount receiving by him as a salary, with that amount he cannot run the family, therefore he has to necessarily depend the mother as she is getting a pension. Therefore, based on this family circumstances



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it cannot be construed that the family is not in penurious circumstances and based on which the rejection made by the Department as has been confirmed by the Tribunal through the impugned order is infirm, he contended.

9. Mr.D.Kumaraguru, learned Senior Panel Counsel appearing for the respondents who has reiterated what has been stated as the ground to oppose the prayer sought for by the original applicant before the Tribunal as has been reflected in their counter as well as the order passed by the CAT.

10. We have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

11. As has been rightly held by the Tribunal in the judgment impugned that, the compassionate appointment is not a source of recruitment.

12. The compassionate appointment is a deviation from the regular



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recruitment method and which is being adopted by every Employer especially the Governmental Organisation only to bail out the family which is in indigent circumstances due to the sudden demise of the breadwinner or head of the family.

13. Here in the case in hand, in fact the deceased employee has been served from 1978 till 2015 and he died only just 9 months prior to the superannuation thereby almost the entire service period he has rendered service and earned money.

14. Moreover, after his death a sum of Rs.13,96,580/- i.e. around Rs.14,00,000/- had been paid to the writ petitioner widow as a retiral benefits.

15. That apart, the applicant widow is getting Rs.19,600/- as monthly family pension besides a sum of Rs.7,000/- being earned by them by way of rental income. That apart, two children including, the son in whose favour the compassionate appointment sought for, with his qualification is already working in a Company, where, he is earning a sum of Rs.27,000/- as monthly income. Both the children got married and



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settled in their life.

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16. When that being so, it cannot be stated that, the family is in indigent circumstances and no one is dependent any one as everyone is having their own independent income. When that being the position, this kind of situation cannot be construed as a penurious circumstances of the family concerned and therefore on that basis the denial of compassionate appointment to this family, especially the son of the deceased is to be justified. Hence, the reasons given and the ultimate conclusion reached by the Tribunal, in our considered opinion, is to be sustained as it cannot be found out with any erroneous findings, therefore this writ petition has to naturally fail, hence it is dismissed. However, there shall be no order as to costs.

[R.S.K., J.] [K.B., J.]

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

Sgl

To



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Union of India,
Southern Railway,
HQ Office, Personnel Branch,
Chennai – 600 003.
2. The Senior Deputy Personnel,
Officer/MAS, Union of India,
Southern Railway,
Divisional Railway Manager's Office,
Personnel Branch, Chennai Division,
Chennai – 600 003.
3. The General Manager,
Union of India,
Southern Railway,
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