



W.P.No.10872 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on : 29.11.2023

Order Pronounced on : 29.01.2024

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.10872 of 2020
and W.M.P.No.13194 of 2020

1.R.Kala
2.R.Vivek

.. Petitioners

Versus

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

2.The Senior Divisional Personnel Officer,
Southern Railway, Chennai Division,
NGO Annexe,
Park Town,
Chennai-600 003.

3.The Registrar,
Central Admin Tribunal,
Madras Bench,
Chennai-600 104.

.. Respondents



W.P.No.10872 of 2020

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Prayer: Writ Petition is filed under Section 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to Original Application No.829 of 2019 on the files of the Central Administrative Tribunal, Madras Bench (3rd respondent) and to quash the orders dated 30.01.2020 and to direct the 1st respondent to appoint the 2nd petitioner(R.Vivek) in any suitable post on compassionate grounds in Chennai Division of Southern Railway.

For petitioners : Mr.R.Pandian

For R1 to R2 : Mr.P.T.Ramkumar
Standing Counsel

For R3 :Tribunal

ORDER

P. Dhanabal, J

This Writ Petition has been filed by the petitioner to call for the records pertaining to Original Application No.829 of 2019 on the file of the Central Administrative Tribunal, Madras Bench(3rd respondent) and to quash the order dated 30.01.2020 and to direct the 1st respondent to appoint the 2nd petitioner (R.Vivek) in any suitable post on compassionate grounds in Chennai Division of Southern Railway.



W.P.No.10872 of 2020

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2. According to the petitioners, the husband of first petitioner and father of second petitioner was employed as Safaiwala in Health Unit, Katpadi, Southern Railway. When he was in service, died on 19.10.2009 due to his illness. Thereafter, the petitioners sent a representation in the month of January 2010, seeking for terminal benefits and for appointment of compassionate ground to the second petitioner. In the middle of February 2010, the petitioners received a communication from the second respondent dated 02.02.2010, directing her to produce a Succession Certificate from competent Court, since another lady Anthoniamma, was also claimed to be the wife of late P.Renu/husband of first petitioner. The marriage between the first petitioner and the deceased P.Renu was solemnized on 30.08.1976, since the marriage of first petitioner with Renu was a love marriage, her husband was forced to marry his cousin (Anthoniamma) by his parents and relatives. Therefore, the husband of first petitioner namely Venu married the Anthoniamma as second wife. As per direction of the second respondent, the first petitioner filed a Succession Original Petition in S.O.P.No.170/2010 before the Sub Court, Vellore and thereafter, the case was referred to Lok Adalat and award was passed on 13.03.2015. As per the award passed by Lok Adalat, the second petitioner namely Vivek who is the son of the deceased



W.P.No.10872 of 2020

Renu is entitled to get job on compassionate ground from the southern railway and the daughters of the first petitioner are entitled to receive DCRG and GIS benefits. The second wife of Renu namely Anthoniamma to get family pension.

(i) Thereafter, the first petitioner submitted a representation on 19.03.2015, to the respondents enclosing the award passed by Lok Adalat dated 13.03.2015. Despite the lapse of more than one year, the second respondent did not disburse the terminal benefits as per the award passed by the Lok Adalat and also failed to appoint the second petitioner on compassionate grounds. Thereafter, the second petitioner approached the Central Administrative Tribunal and filed Original Application in O.A.No.801 of 2017 and the same was allowed with direction that the applicant to submit a detailed representation to the respondents within a period of seven days and the respondents after receipt of the same shall consider and pass a reasoned and speaking order within a period of two months thereafter.

(ii) Thereafter, on 29.06.2017, the second petitioner submitted a detailed representation to the respondents. But the second respondent issued a letter to the second petitioner in the first week of September, stating that no



W.P.No.10872 of 2020

representation was received, and further directed to submit a representation within a period of seven days. On receipt of the above said letter, the second petitioner submitted another representation dated 12.09.2017 along with a copy of earlier representation dated 29.06.2017. Thereafter, the second petitioner received a letter dated 02.02.2018 from the second respondent stating that the in compliance with the Lok Adalat award, it was decided by the competent authority to consider a job on compassionate ground subject to the extant rules governing such appointment and smt. Anthoniamma will be granted family pension and the arrears of family pension and smt. R. Kala and her children will be granted the other benefits.

(iii) Thereafter, a Welfare Inspector under the control of second respondent also visited the residence of the petitioners and conducted enquiry. As per the Lok Adalat award, except the appointment of compassionate ground, all other terms have been complied. Thereafter, the first petitioner received a letter dated 11.04.2019/02.05.2019, from the second respondent declining to sanction appointment to the second applicant on compassionate ground against the extant rules. The compassionate appointment was declined on the ground that on the date of death of his father, he was aged about 25 years and on presently, he is more than 27 years of age, thereby he is not



W.P.No.10872 of 2020

depending on his father. The above said order is violation of rules, thereafter these petitioners filed Original Application in O.A.No.829 of 2019, but the Central Administrative Tribunal without taking into consideration of the real facts, erroneously dismissed the petition. Hence, this Writ Petition is filed.

3. No counter was filed by the respondents in this Writ Petition.

4. Learned counsel appearing for the petitioners would contend that the first petitioner's husband and father of second petitioner was working under the respondents Railway Department and during his service, he died on 19.10.2009. Thereafter, these petitioners have approached the respondents for appointment on compassionate ground and the same was rejected by the respondents. The denial to appoint the second petitioner on compassionate ground is against the scheme providing for compassionate appointment. Already, the legal heirs of deceased employee and his second wife, have entered into compromise between them and award also passed through Lok Adalat and as per the award, the second petitioner is entitled to compassionate appointment from the Railway Department and other terminal benefits were settled between the other legal heirs of the deceased. The one part of the Lok Adalat award was accepted by the Railway Department and the another part of



W.P.No.10872 of 2020

the Lok Adalat was declined by the Railway Department. The appointment on compassionate ground is made to dependents of railway servants who lose their lives in the course of duty or die in harness. Therefore, the denial to sanction the compassionate ground appointment in favour of the second petitioner is against law. As per RB letter dated 18.04.1985, appointment of compassionate ground should be made within a period of five years from the date of occurrence. This period of five years may be relaxed by the General Manager. In this case, the petitioners have submitted their application within three months from the date of death of deceased employee. The rejection of claim by the respondents that the second petitioner completed 27 years is gross violation of rules stipulated in railway recruitment board. Without considering the above said aspects, the Central Administrative Tribunal has dismissed the petition.

5. The learned counsel appearing for the respondents would contend that the deceased employee P.Renu who was working as Safaiwala in Health Unit, Katpadi, Southern Railway died on 19.10.2009. In the family composition, he had declared one smt.Kala, as his wife, R.Vivek and his son and R.Surekha as his daughter respectively. While, the settlement benefits were being processed one Smt.Anthoniamma submitted a representation dated 06.01.2010 stating



W.P.No.10872 of 2020

that she was married to P.Renu on 14.10.1978 and enclosed her marriage certificate. Thereafter, they submitted a Lok Adalat award and based on the award, the department has acted upon and settled the benefits. Thereafter, the second applicant has filed Original Application in O.A.No.801 of 2017 and same was disposed of on 09.06.2017 by directing the second petitioner to submit a detailed representation within a period of seven days. The second petitioner also submitted a representation dated 14.09.2017, the respondents conducted enquiry and as per the enquiry report, it disclosed that the first petitioner is employed in Vellore, Municipality and earning a sum of Rs.34,130/- per month. The first petitioner made a request for compassionate appointment on 29.06.2017 to her son after eight years from the date of death of the employee. Therefore, the family was able to survive without any difficulties and there was no financial crisis for the last ten years. The competent authority vide impugned order dated 02.05.2019 rejected the claim of the petitioners on the ground that the second petitioner namely Vivek was more than 27 years of age that he was not a dependent of his father. Since, there was no dependency factor and financial crisis, the claim was rejected by order dated 02.05.2019. As against the said order, the petitioners filed Original Application in O.A.No.829 of 2019 and the same was elaborately heard by the Tribunal and then dismissed on merits. Therefore, the present Writ Petition is



W.P.No.10872 of 2020

liable to be dismissed.

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6. This Court heard both sides and perused the records.

7. It is admitted fact that these petitioners are legal heirs of deceased employee. The contention of the petitioners is that as per the advice of respondents, they filed Succession Original Petition before the competent Court and got Lok Adalat awards. In terms of Lok Adalat award, the respondents also acted upon and disposed the terminal benefits of the deceased but failed to consider the compassionate appointment of the second petitioner.

8. The respondents contention is that the petitioners have submitted the Lok Adalat award and based on the award, terminal benefits were disposed to them. But the first petitioner has been working in the Vellore Municipality and earning around Rs.32,000/- per month and the second petitioner also aged about 27 years at the time of considering the compassionate ground appointment thereby, he would not be a dependent of his father, and thereby the request was rejected by the Department. The factum of employment of first petitioner at Vellore Municipality and earning more than Rs.32,000/- is not denied by the first petitioner and they were also not in a financial crisis



W.P.No.10872 of 2020

immediately after the demise of deceased employee. The main purpose of compassionate ground is to get over the immediate financial crisis of the family of the deceased employee. But in the case on hand, the first petitioner who is the wife of deceased and mother of the second petitioner has been working in the municipality and thereby, there was no financial crisis immediately after the death of the deceased employee. Further the petitioners also submitted the application only in the year 2017 that is 8 years after the date of death of the deceased, who died in the year 2009. Therefore, the second petitioner will not come under the purview of the rules of compassionate ground appointment. Therefore, the order passed by the second respondent by rejecting the claim of the second respondent for considering him on compassionate ground is reasoned one.

9. The Tribunal also in this aspect discussed in the order that as per the Rules, at the time of considering such requests for appointment on compassionate ground, the competent authority should satisfy himself on the basis of a balanced and objective assessment of the financial condition of the family that the ground for compassionate appointment in each such case is justified, having regard to the number of dependents, assets and liabilities left by the deceased employee, income of any member of the family and also his



W.P.No.10872 of 2020

liability including the aspect whether the earning member is residing with the family of the deceased employee and whether he provides any support to other members of the family. Since the second applicant did not satisfy the conditions stipulated in the circular at the time of the submission of the application, he is not entitled to claim appointment on compassionate ground. Further, the Tribunal also relied on judgments of Hon'ble Supreme Court in the case of Chief Commissioner, Central Excise & Customs, Lucknow and others Vs.V.Prabhat Singh in C.A.No.8635 of 2012 decided on 30.11.2012 and also relied on the decision rendered by this Court in G.Rajbabu Vs. Tamilnadu Electricity Generation and Distribution Corporation Ltd. (TANGEDCO) in W.P.No.3882 of 2014 dated 06.10.2017 and dismissed the Original Application filed by the petitioners.

10. This Court has carefully perused the records, order passed by the respondents and the learned Central Administrative Tribunal and we find that there is no infirmity in the order passed by the Tribunal. Therefore, this Court is of the view that the order passed by the Central Administrative Tribunal is well reasoned one and warrants no interference.



W.P.No.10872 of 2020

11. In view of the above, this writ petition has no merits and deserves to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

(D.K.K.J) (P.D.B.J)
29.01.2024

Index: Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mpa

To

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