



WEB COPY



W.P.No.19647 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.19647 of 2023
and
WMP No.18905 of 2023

1. Union Of India,
Rep By The General Manager,
Southern Railway,
Park Town, Chennai- 600 003.
2. The Divisional Railway Manager,
Southern Railway, Chennai Division,
NGO Annexe, Park Town, Chennai-03.
3. The Senior Divisional Personnel Officer,
Southern Railway, Chennai Division,
NGO Annexe, Park Town, Chennai-03.
4. The Divisional Personnel Officer/I,
Southern Railway, Chennai Division ,
NGO Annexe, Park Town, Chennai-03.

... Petitioners

Vs.

1. The Registrar,
Central Administrative Tribunal,
Madras Bench High Court Building,
Chennai- 104.

2. B.Manmathan

... Respondents



W.P.No.19647 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari to call for the records of the Hon'ble Tribunal in its impugned order dated 08.09.2022 in OA 1391/2019 passed by the 1st respondent Honourable Central Administrative Tribunal Madras Bench and quash the same.

For Petitioner : Mr. S. Girish,
for Mr. M.Karthikeyan
For Respondents : R1- Tribunal

Mr.R. Pandian
for R2

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ on hand has been instituted by Union of India challenging the order of the Central Administrative Tribunal, Chennai Bench, dated 08.09.2022 in O.A.No.1391 of 2019.

2. The Second respondent/Mr.B.Manmathan filed Original Application challenging the order of rejection, dated 10.09.2019, rejecting his claim for compassionate appointment in the writ petitioners' organization.

3. The second respondent herein is the son of the second wife of the deceased employee, who served in the petitioners' organization/ Southern Railway. The father of the second respondent was employed in Southern



W.P.No.19647 of 2023

Railway and died on 30.06.2004 while he was in service. The legally wedded wife of the deceased employee filed an application seeking compassionate appointment to her son, which was considered by the Southern Railway and rejected in Proceedings dated 13.04.2005. The application filed by Mr.Moorthy was rejected on the ground that he did not possess the minimum requisite qualification for appointment in Southern Railway as per the rules. Thereafter, a representation was submitted to provide appointment to the second respondent, who is the son born through the second wife of the deceased employee. The said application was also rejected by the Southern Railway vide proceeding dated 23.02.2007 on the ground that son of the second wife is not eligible for compassionate appointment. The said rejection order remains unchallenged till today. In between, the first wife legally wedded wife of the deceased employee, also died on 25.08.2012. She was the family pensioner receiving family pension till her death.

4. The second respondent has not initiated any further action for about 8 years. In the year 2015, a fresh representation was submitted seeking appointment on compassionate ground. The said application was again considered and rejected by the authorities in the year 2019, which provided a cause for institution of Original Application before the Central Administrative



W.P.No.19647 of 2023

Tribunal. The Central Administrative Tribunal, Chennai, by an order dated 08.09.2022 allowed the application and directed the petitioners herein to consider the claim of the 2nd respondent herein for compassionate appointment. Against which, the present writ petition has been filed.

5. We have considered the rival submissions made between the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

6. Initial question to be considered is, whether 2019 rejection order would provide cause for institution of Original Application under the Administrative Tribunals Act. An aggrieved person can approach the Tribunal within a period of one year as per Section 19 of the Administrative Tribunals Act. Repeated rejection orders would not provide a fresh cause for institution of new proceedings.

7. The growing trend of practice is that representation after representation are submitted to the competent authorities. The litigants are filing applications/writ petitions seeking a direction to dispose of such representation. The Courts are issuing orders directing the authorities to



W.P.No.19647 of 2023

dispose of the representation. The authorities in compliance to the said order is passing orders on merits. Such orders are taken undue advantage by the litigants for the purpose of creating a new cause of action against the dead causes.

8. Dead cause of action at no circumstances be allowed to be restored in an indirect manner by submitting representation and seeking an order of direction to dispose of the representation. Such practices of the litigants with the assistance of legal brains at no circumstances be appreciated, but to be deprecated.

9. In the present case, the employee died on 30.06.2004. Rightly the first wife of the deceased employee submitted an application to provide employment to her son and it was rejected on 13.04.2005 since he was not qualified. Second application was submitted to provide appointment to the son of the second wife of the deceased and that was rejected on 23.02.2007 and the said order remains unchallenged. Therefore, the subsequent representation submitted after a lapse of 8 years, i.e., in the year 2015 is not entertainable nor the rejection order of the year 2019 would provide any cause for institution of Original Application or Writ Proceedings. This kind of continuous litigations,



W.P.No.19647 of 2023

by creating certain circumstances, if permitted would lead to a anomalous situation. Therefore, this Court is of the considered opinion that once an order of rejection was passed in the year 2005 and 2007, any further representation thereafter afresh before the authorities are not entertainable and the authorities have got every right to reject the same on the ground of entertainability.

10. No doubt compassionate appointment scheme is provided to mitigate the circumstances arising on account of the sudden death of an employee, who may be the only bread winner in the family. Therefore, an assessment regarding indigent circumstances of the family is of paramount importance for providing appointment on compassionate grounds. The object of the scheme is not to provide one appointment to the legal heir of the family of the deceased employee. The purpose and object of the scheme is to mitigate the penurious circumstances arising on account of the sudden death of an employee, while in service.

11. The scheme of compassionate appointment is a concession, and not an absolute right. The scheme is not falling under the constitutional scheme of appointments. Scheme being violative of Articles 14 and 16 of the Constitution of India, appointment on compassionate grounds are to be made scrupulously, adhering to the eligibility criteria fixed under the scheme by the Union of India.



W.P.No.19647 of 2023

12. Compassionate appointments can never be claimed as an absolute right. All appointments are to be made strictly under the constitutional scheme and by following the procedures as contemplated under the Recruitment Rules.

13. Compassionate appointments, if provided to larger extent, it would result in infringement of Fundamental Rights of citizens, who all are aspiring to secure public employment through open competitive process. Compassionate appointment being a special scheme, it is to be implemented only to the extent of providing employment assistance to the most deserving families to be identified by following the eligibility criteria fixed by the employer concerned.

14. Lakhs and Lakhs of youth of our Great Nation are longing to secure public employment through open competitive process. No merit assessment has been made under the scheme of compassionate appointment. Rule of Reservations are not followed. Death of an employee alone is taken into consideration for providing a public appointment to one of the legal heir of the family of the deceased employee. While so, the benefit is to be extended by assessing the penurious circumstances of the family and the other criterias fixed for providing appointment on compassionate grounds. Mere death of an employee alone is not a criteria for providing an appointment on compassionate grounds.



W.P.No.19647 of 2023

15. The Government of India constituted the Circle Relaxation Committee to assess applications filed. The Committee scrutinizes applications considering the case of the applicants based on relative merits, indigent circumstances, and availability of vacancies earmarked for compassionate appointments.

16. In the present case, the Tribunal again adjudicated the issues on merits despite the fact that the rejection order passed on 23.02.2007 remains unchallenged. That apart, long delay in submitting an application itself is a ground to reject the appointment on compassionate grounds. Delay in considering the case by itself would provide a ground to draw an inference that the penurious circumstances arose became vanished. More so, the employee died in the year 2004 and the application after rejection order was submitted by the second respondent in the year 2015 and the impugned order was passed in the year 2022 and that being the factum, the scheme cannot be now extended at this length of time, which would defeat the very purpose and object of the scheme of compassionate appointment. Thus, we are inclined to interfere with the order impugned passed by Central Administrative Tribunal.



W.P.No.19647 of 2023

17. Accordingly, the order passed by the first respondent/Central Administrative Tribunal, Chennai Bench in O.A.1391/2019 is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.] [M.J.R., J.]
16.12.2024

Index: Yes/No
Speaking/Non-speaking order
mrp

To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench High Court Building,
Chennai- 104.
2. The Public Prosecutor,
High Court of Madras.



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W.P.No.19647 of 2023

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