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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-12-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

WP No. 29310 of 2023

1. Union Of India
Rep. By The General Manager,
Southern Railway, Park Town,
Chennai 600 003.

2.The Divisional Personnel Officer
Chennai Division, Southern Railway,
Park Town, Chennai 600 003.

Petitioner(s)

Vs

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

2.D.Marimuthu

Respondent(s)

PRAYER

Calling for the records of the Tribunal in its impugned order dated 21.04.2022 in OA.No.813/2019 passed by the 1st respondent, Central Administrative Tribunal, Madras Bench and quash the same.

For Petitioner(s): Mr.S.Girissh for
Mr.M.Karthikeyan

For Respondent(s): R-1 Tribunal
R-2 No Appearance



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ORDER
(Order of the Court was made by S.M.Subramaniam J.)

Under assail is the order dated 21.04.2022 passed by the Central Administrative Tribunal, Madras Bench, (hereinafter referred to as “CAT”) in O.A.No.813/2019.

2. Union of India is the writ petitioner. Challenging the order of CAT mainly on the ground that the scheme of compassionate appointment has been expanded for the purpose of providing appointment to an in-eligible legal heir of the deceased employee, who served as daily rated employee in the Department. Under the approved scheme of the Government of India, the Scheme of compassionate appointment is inapplicable to the legal heirs of the daily rated employee and it is applicable only to the regular employees.

3. The deceased employee was engaged as Casual Labourer with effect from 11.04.1973 and temporary status was conferred on him on 01.10.1974. In such capacity, he died on 20.10.1987. After a lapse of about 16 years from the date of death of the deceased employee, petitioner, who is the son of the employee submitted an application on 17.08.2003 seeking appointment on compassionate grounds. The said application was rejected by the authorities vide Proceedings, dated 09.06.2005 on the ground that the wards/widow of casual labourers (with temporary status), who died in harness



are not to be considered for engagement as Casual Labourers/Substitute on compassionate grounds. Since the scheme does not provide appointment on compassionate ground in respect of the Casual Labourers with temporary status, the case of the respondents was not considered. Once again, the respondent submitted an application in the year 2016 and filed Original Application and the Central Administrative Tribunal directed authority to consider the same. Application of the petitioner was considered and an order was passed reiterating on the ground of ineligibility and that respondent is not possessing requisite qualification for appointment of compassionate grounds. Thus, another Original Application in O.A.No.813 of 2019 was filed and the Tribunal passed an order on 21.04.2022 directing the authorities to conduct an enquiry for verifying the facts, status of the family and pass appropriate orders within a period of three months. Aggrieved by the said order, the Union of India preferred the said writ petition.

4. This Court has considered the rival submissions of the learned counsel for the petitioner.

5. Governing legal principles on compassionate appointments have been now settled by the Constitutional Courts across the country and the Hon'ble Apex Court of India.



6. Scheme of compassionate appointment is a special scheme and not a constitutional scheme of appointment. Compassionate appointment is a concession and can never be claimed as an absolute right. Scheme is to be implemented scrupulously in consonance with the terms stipulated and any expansion by the judicial fora would result in infringement of the constitutional rights of lakh and lakh of youths of our great Nation, aspiring to secure public employment through open competitive process. All public appointments are to be made under the constitutional schemes. Certain special schemes by way of concession are introduced by the Union of India and the States for the welfare of the employees and the compassionate appointment scheme is one such scheme. The purpose and object of the scheme is to mitigate the circumstances arising on account of the sudden death of an employee. Thus, the indigent circumstances of the family and the related facts are to be ascertained before providing appointment on compassionate appointment.

7. Compassionate appointments are not made on merit basis. Rule of reservations are not followed. Ability, suitability is not ascertained. It is provided merely on the ground that the applicant is the legal heir of the deceased employee. Thus, the terms and conditions stipulated are to be scrupulously followed by ascertaining source of income, eligibility for appointment under the scheme. Any misplaced sympathy in the matter of compassionate appointment would undoubtedly affect the efficiency in public administration. Efficiency in public administration is the constitutional



mandate. Thus, compromising the said principle would affect the public interest.

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8. The High Court, in exercise of the powers of judicial review cannot expand the scheme of compassionate appointment by exercising its discretion or by expanding the scope of the scheme in force. Any such attempt would cause prejudice to the public interest and will open Pandora's box wherein many such similarly placed persons will also seek compassionate appointment and ultimately, the appointments under the constitutional scheme will be defeated.

9. In the present case, the scheme of the Government of India for compassionate appointment has been placed before this Court. Clause 2. (B) Note-II defines, *“Government Servant” for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or adhoc or contract or re-employment basis.”*

10. In the present case, the nature of appointment of the deceased employee are not disputed between the parties. The father of the second respondent served as a Casual Labourer. While so, the scheme itself is not applicable and therefore, the CAT cannot expand the scope of the scheme so as to provide a public employment, which is in violation of the constitutional



principles and would infringe the rights of numerous eligible meritorious candidates, who are all longing to secure public employment by participating in open competitive process.

11. In view of the above reasons, the order of the Central Administrative Tribunal dated 21.04.2022 in OA.No.813/2019, is set aside. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)

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gd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To

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