



Writ Petition No.33003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
21.01.2026

PRONOUNCED ON
12.02.2026

CORAM

**THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Petition No.33003 of 2023

C.Kumari

... Petitioner

Vs

1.Union of India,
Represented by
The Chairman & Chief Executive Officer,
Railway Board (Ministry of Railways),
Rail Bhavan, Raizina Road,
New Delhi – 110 001.

2.The General Manager,
Southern Railway Head Office,
Park Town, Chennai – 600 003.

3.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai – 600 104.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus any other appropriate Writ, direction or order in the nature of Writ calling for the



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records pertaining to the impugned order in O.A.No.310/00411/2021 dated 08.09.2023 of the third respondent and quash the same as illegal and consequently direct the first and second respondents to provide employment to the petitioner's daughter C.Rathi on compassionate ground upon the death of the petitioner's husband Chandran and pass such further orders.

For Petitioner : Mr.S.Karthikei Balan

For RR1 & 2 : Mr.A.Kumaraguru

CGSC

For R3 : Tribunal

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This writ petition has been filed by the petitioner against the tribunal order dated 08.09.2023 passed by the third respondent who rejected the compassionate appointment of the petitioner's daughter to quash the same and for consequential direction to provide employment.

2. Heard Mr.S.Karthikei Balan, learned counsel for the petitioner and Mr.A.Kumaraguru, learned Central Government Standing Counsel appearing on behalf of the first and second respondents.

3. Mr.S.Karthikei Balan, learned counsel for the petitioner would



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submit that the petitioner's husband who was working as a Technician Grade-I with the respondents, died while in service on 30.09.2013. He would submit that they had four female children out of the wedlock and all were married at the time of death of the employee. However, their last daughter had separated from her matrimonial family and had been living with her parents from the year 2012. In support of her contention that the youngest daughter was living with them, the learned counsel for the petitioner had produced a complaint given against the son-in-law by her daughter in the year 2012 before Arakonam Police Authorities.

4.He would submit that after the death of the employee, an application seeking compassionate appointment for the youngest daughter was made by her along with the consent given by the other daughters. The same was originally rejected on 13.07.2015 by the Divisional Railway Manager, who is not a competent authority to decide the issue. According to her, the General Manager who is the second respondent herein alone is the competent authority. Hence, without challenging the same, further representations were made to the second respondent seeking compassionate appointment.



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5. In the interregnum, the youngest daughter for whom the application was made was also given a decree of dissolution of marriage in the year 2016. He would contend that the youngest daughter has also two minor children and the family is in a penurious circumstances. Repeated efforts were made to the second respondent seeking for compassionate appointment. On the application made by the petitioner, enquiry was also conducted by the Officials of the Department and favourable recommendations was also made recording that the youngest daughter had been deserted by her husband. However, by an order dated 28.01.2021, an order of rejection came to be passed by the second respondent which was challenged by the petitioner before the Tribunal.

6. He would submit that the Tribunal erroneously holding that the petitioner had not challenged the earlier order of rejection cannot be allowed to challenge the order of the year 2021 apart from holding that there was failure to explain the penurious condition of the family in upholding the order of rejection made by the second respondent. He would submit that the earlier order of rejection made in the year 2015 was not made by the



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competent authority and therefore, the same need not be challenged as it is non-est.

7.He would further submit that the certificate given by the Tahsildar indicating the penurious circumstances of the family had also been placed on record before the Tribunal apart from the Report of the Officers of the Railway who had conducted the enquiry on the application and filed a Report. Hence, he would submit that the order of Tribunal without considering the facts of the case in its proper perspective requires interference by this Court and seeks this Court to set aside the orders passed by the Tribunal as well as the second respondent in the year 2021 and direct the respondents to consider the claim of the petitioner in the proper prospective. He had also relied upon the following judgments in an identical circumstances.

a) W.P.No.9269 of 2014 dated 03.09.2014 in the case of Union of India and 3 Ors., Vs The Registrar and Anr.

b) 2016 SCC Online Mad 28999 in the case of R.Pitchaiammal and Anr. Vs The General Manager and 3 Ors.,



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***c)2023 SCC Online Mad 5899 in the case of
A.Chinnaponnu and Anr. Vs Union of India and 5 Ors.,***

8. Countering his arguments, Mr.A.Kumaraguru, learned Central Government Standing Counsel appearing on behalf of the first and second respondents would submit that admittedly the petitioner's youngest daughter was married at the time of the death of the employee. Having been given in marriage, the said daughter cannot be said to be dependant of the employee at the time of his death. He would submit that compassionate appointment is given only to a dependant member of the family on the date of the death of the employee.

9.In the present case, he would submit that the decree of divorce was granted only in the year 2016 ie., after the death of the employee and therefore, the youngest daughter would not be entitled for being considered for compassionate appointment. He would further submit that the order of the Senior Divisional Personnel Officer dated 13.07.2015 whereunder the request for compassionate appointment had been rejected was not made by the Officer who had issued the same, but, it was a communication informing



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the decision of the General Manager/ second respondent. Therefore, he would submit that it is a fallacy to contend that the said order had been made by an Authority who is not competent to pass orders.

10. He would submit that the order impugned before the Tribunal is only a reiteration of the order of the earlier rejection and therefore without challenging the earlier order dated 13.07.2015, the present claim by the petitioner need not be entertained by this Court. He would reiterate the averments made in the counter particularly paragraph 12 of the counter by taking us through the same would contend that the case of the petitioner was not rejected on the ground that the youngest daughter was married, divorced or deserted, but as it was found that there was no financial dependency factor.

11. He would further submit that a policy decision had been taken by the Department to consider even the married daughter for compassionate appointment however, subject to the condition that it should be satisfied that the married daughter will be the bread winner of the family. When such a criteria had not been satisfied, the petitioner cannot seek compassionate



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appointment of a daughter who was married at the time of the death of the deceased employee. Therefore, he would submit that there is no error in the orders impugned herein which would warrant interference by this Court and therefore, seeks dismissal of the Writ Petition.

12. We have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

13. The husband of the petitioner who was employed with the first and second respondents had died in the year 2013 leaving behind his wife and four daughters who were married. It is the case of the petitioner that the youngest daughter even though married was deserted by her husband and had been living under the care and protection of her husband, the deceased employee. Hence, an application seeking compassionate appointment to appoint the youngest daughter on compassionate grounds was made. Originally by a communication dated 13.07.2015, the Divisional Manager, Chennai had sent a communication rejecting the consideration of the same solely on the ground that the said daughter was married. The said communication do not refer to any decision taken by the second respondent



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rejecting the claim except to indicate the regret of the General Manager.

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14. When that being so, the contention of the respondents that the same had been made with proper authority cannot stand. Even assuming that it is only a communication of a decision, the same do not reflect the date of the proceedings under which such decision was taken by the second respondent. In such an event, the same could only be utmost termed to be an order passed without any authority. Such order cannot stand the test of judicial scrutiny and also cannot be put against the petitioner to raise the grounds of res judicata.

15. It is to be further noted that it is an admitted case that the daughter given in a marriage could also be considered for compassionate appointment provided that she will be the bread winner of the family. Hence, the reason attributed in the communication dated 13.07.2015 would also have to fall.

16. Under the impugned orders before the Tribunal dated 18.02.2021, an order of rejection came to be passed holding that there are no other dependant family members for the petitioner's youngest daughter to be the



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bread winner of the family. It is the case of the petitioner that the youngest daughter had become a dependant of her father even before his death. The learned counsel for the petitioner had relied upon a judgment of the Division Bench of this Court in W.P.No.9269 of 2014 dated 03.09.2014 which was also a Writ Petition arising out of an order made by the Central Administrative Tribunal challenged by the Southern Railways.

17. A perusal of the said order would indicate that there also a claim for compassionate appointment had been made to a daughter who remained married at the time of the death of the employee. The enquiry report of the Officers had also suggested that the said married daughter was staying with the employee before the time of his death as his dependent and was subsequently granted a decree of divorce. This Court after considering the entire case had given a finding that as the claimant was living with the deceased father at the time of his death would be entitled to be considered for compassionate appointment and dismissed the Writ Petition filed by the Department.

18. It is substantiated by the complaint filed by the daughter of the



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petitioner, even before the death of the employee that there has been a discord in the marital life and that the said daughter had been living with the deceased employee. By applying the judgment of the Division Bench of this Court discussed supra, we are of the view that she would also be entitled for grant of compassionate appointment if otherwise she is eligible.

19. The aforesaid reasoning is also supported by the Report submitted by the Officials of the first and second respondents and filed as a part of the typed set. In view of the same, we are of the considered view that the order of the Tribunal as also the order impugned before the Tribunal are laible to be set aside and the issue would have to be remanded back to the respondents for *denova* consideration as the daughter of the petitioner is entitled for the grant of compassionate appointment but, however subject to the substantiation of penury.

20. For the aforesaid reasons, the Writ Petition stands allowed and the order made in O.A.No.310/00411/2021 dated 08.09.2023 is set aside and as a sequel, the order dated 28.01.2021 made by the second respondent is also set aside with a further direction to consider the claim of the petitioner for



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the appointment of her daughter Ms.C.Rathi by evaluating the penurious circumstances of the family and pass appropriate orders within a period of eight (8) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

(C.V.K.,J.) (K.B., J.)
12.02.2026

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
Gba

To

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for The Union of India,
Railway Board (Ministry of Railways),
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C.V. KARTHIKEYAN., J.
and
K.KUMARESH BABU.,J.

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