

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH :: AT HYDERABAD**

OA/021/193/2020

**Reserved on: 07.02.2022
Pronounced on: 15.02.2022**

Hon'ble Mr.B.V.Sudhakar, Admn. Member



J.M. Sanjeev Kumar, S/o. late J. Mogalaiah,
Aged about 40 years, Occ: Unemployee,
R/o. 45-521/1/A, Prashanthi Nagar colony,
Behind Railway Quarters, Moula Ali,
Hyderabad – 500 040.

...Applicant

(By Advocate: Mr. K. Siva Reddy)

Vs.

Union of India, Rep. by

1. The General Manager,
South Central Railways,
Rail Nilayam, Secunderabad.
2. The IG and Chief Security Commissioner,
Rail Nilayam, South Central Railway,
Secunderabad.
3. The Senior Divisional Security Commissioner/RPF,
South Central Railway, Secunderabad.

....Respondents

(By Advocate : Mr. V.V.N. Narasimham, SC for Railways)

ORDER
(As per Hon'ble Mr. B.V.Sudhakar, Admin. Member)

Through Video Conferencing:

2. The OA has been filed in regard to the compassionate appointment to be granted to the applicant.



3. Brief facts of the case are that the father while working as Head Constable in the Railway Protection Force (for short **RPF**) passed away on 04.02.1999, leaving the applicant, his mother and sister and also the first wife of the deceased. The applicant claims that in the Railway Records like the railway pass, etc., family particulars have been recorded. The mother of the applicant applied for compassionate appointment on 2.4.1999, to which, the respondents replied directing to obtain succession certificate. Later, when the applicant requested for settlement of terminal benefits/ compassionate appointment, the respondents once again directed to obtain succession certificate. The mother of the applicant died on 20.12.2011. Further, there was dispute between the applicant and the first wife of the deceased employee leading to filing of a Civil Miscellaneous Application No. 326/2013 before the Hon'ble High Court of Andhra Pradesh. When the case was under litigation, the dispute among the applicant and the first wife of the deceased employee was resolved by way of compromise and the same was recorded in the disposal of the Civil Miscellaneous Application by the Hon'ble High Court on 09.04.2013. In terms of the compromise that was worked out, the terminal benefits were distributed. After receipt of no objection certificate from the first wife of the deceased, the applicant made

application for compassionate appointment on 23.5.2015 to the 3rd respondent, which was rejected vide order dt. 28.09.2015. A further application made in this regard also met with same fate on 12.04.2017. Against the said two orders, the applicant appealed to the 1st respondent on 24.10.2017, which was also rejected on 26.12.2018, which is impugned in this OA.



4. The contention of the applicant is that since the respondents are party to the CMA before the Hon'ble High Court, they have to honour the condition of considering him for compassionate appointment. The rejection of his request for compassionate appointment is illegal and contrary to the terms of the compromise which were recorded by the Hon'ble High Court in the CMA referred to supra.

5. The respondents in their reply state that the applicant's father worked as Head Constable in RPF. Hence, this Tribunal has no jurisdiction over the dispute in question. Therefore, the respondents opposed the OA, inter alia, on the ground of lack of jurisdiction of this Tribunal to adjudicate the rejection order passed by the armed department, which is not notified under the AT Act. They also contested the OA on merits saying that the OP No. 113/1999 on the file of the I Addl. Chief Judge, Civil Court, Secunderabad, filed by the applicant and his mother seeking succession certificate was dismissed. However, there was a settlement outside the court *inter se* the parties to the said OP and the same is not binding on the Railways in so far as the issue of compassionate appointment is concerned.

6. Heard both sides and perused the pleadings on record.

7(I) After hearing both the counsel and perusing the pleadings on record, this Tribunal is of the view that the primary aspect that needs to be adjudicated is about the jurisdiction of this Tribunal. Section 2 of the Administrative Tribunal Act, 1985 is relevant to decide the issue, which is extracted as under:



“2. Act not to apply to certain persons.—

The provisions of this Act shall not apply to—

- (a) any member of the naval, military or air forces or of any other armed forces of the Union;*
- (b) * * * * **
- (c) any officer or servant of the Supreme Court or of any High Court or courts subordinate thereto;*
- (d) any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union territory having a Legislature, of that Legislature.”*

Further, Section 14 of the Administrative Tribunals Act, 1985 deals with the issue of Jurisdiction of this Tribunal, which reads as under:

14. Jurisdiction, powers and authority of the Central Administrative Tribunal.—

*(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court³⁹ [***] in relation to—*

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or

under the control of the Government of India or of any corporation⁴⁰ [or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation⁴⁰ [or society] or other body, at the disposal of the Central Government for such appointment.⁴⁰ [Explanation.—For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union territory.]



(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations⁴⁰ [or societies] owned or controlled by Government, not being a local or other authority or corporation⁴⁰ [or society] controlled or owned by a State Government: Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations⁴⁰ [or societies].

*(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation⁴⁰ [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court³⁹ [***]) in relation to—*

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation⁴⁰ [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation⁴⁰ [or society] and pertaining to the service of such person in connection with such affairs.

Chapter XI of the Indian Railway Works Manual deals with the Railway Protection Force. The relevant portion is extracted as under:

“POLICE JURISDICTION AND SECURITY OF RAILWAY MATERIALS.

1102 Police Jurisdiction

xxxx

c) Railway Protection Force

(i) Railway Protection Force has been created as an Armed Force of the Union under the R.P.F. Act 1957 (as modified by Act No.60 of 1985). It is placed

under the Ministry of Railways and its members are deemed to be Railway Servants within the meaning of the Indian Railways Act 1989 and shall exercise the powers conferred on Railway Servants by or under that Act.

(ii) RPF has been conferred with powers under the Railway Property (Unlawful Possession) Act 1966 to arrest, search, inquire and prosecute offenders of unlawful possession of Railway property.

(iii) Being an Armed Force of the Union, RPF can also exercise the powers conferred on the Armed Forces of the Union.”



As per the above provision, this Tribunal has no jurisdiction or power in relation to the personnel working in the RPF. They have to approach appropriate forum.

II. The learned counsel for the applicant submitted that though the father of the applicant worked in RPF, yet the applicant is seeking compassionate appointment, for which this Tribunal is the appropriate forum. However, this Tribunal is not in agreement with the submission of the learned counsel for the applicant since the compassionate appointment has to be given to the deponent family member of the deceased employee, who had worked in the RPF. Therefore, the question of exercising the power of this Tribunal vis-à-vis compassionate appointment to the ward of the RPF personnel does not arise. As seen from the pleadings, the initial application for grant compassionate appointment was made to the 3rd respondent, who is a personnel of RPF. Therefore, this Tribunal has no jurisdiction to intervene on behalf of the applicant.

III. Learned counsel for the applicant cited the judgment of this Tribunal in OA 1223/2014 dt.09.01.2018 as well as that of the Hon'ble High court in WP No. 20619/2013 dt.17.07.2017. On perusal of the order of this

Tribunal supra, it is clear that the deceased husband of the applicant therein was initially working in RPF, but later, due to medical decategorization, he was given alternative posting in Personnel Department, which is in civilian line.



Further, on a perusal of the judgment of the Hon'ble High Court supra, the husband of the petitioner therein worked as Hospital Attendant in Railway Hospital. Thus, in both the cases referred to, the Tribunal had jurisdiction and they were accordingly adjudicated upon. Whereas, in the instant case, the father of the applicant worked in RPF as Head Constable, which is a uniformed service. Hence, the said judgments cited by the applicant would not be of any assistance to him. Applicant has to approach the appropriate forum for the relief sought.

IV. For the reasons stated above, the OA is dismissed for lack of jurisdiction. There shall be no order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

/evr/