

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

**OA/021/0434/2020**

**Reserved on: 15.03.2023  
Pronounced on: 18.04.2023**

**Hon'ble Mr. Sudhi Ranjan Mishra, Judicial Member**



1. Smt. Rajamani, W/o. Late Sri Venkataramulu,  
Ex. P. Man 'B' Bolsa, R/o. H. No. 12-11-778/1,  
Shanthi Nagar, North Lallaguda,  
Secunderabad – 500 007.
2. B. Sandhya, D/o. Late Sri Venkataramulu,  
Ex. P. Man 'B' Bolsa, R/o. H. No. 12-11-778/1,  
Shanthi Nagar, North Lallaguda,  
Secunderabad – 500 007.

.....Applicants

(By Advocate: Mr. G. Pavana Murthy)

Vs.

UOI, Rep. by its

1. The General Manager,  
South Central Railway, Secunderabad.
2. The Divisional Railway Manager,  
South Central Railway, Hyderabad Division,  
Hyderabad Bhavan, Secunderabad.

....Respondents

(By Advocate: Mrs. B. Gayatri Varma, Sr. CGSC)

**ORDER**  
**(As per Mr. Sudhi Ranjan Mishra, Judicial Member)**

The applicants filed the OA seeking the following relief:

*“..to quash and set aside the order of 1<sup>st</sup> respondent communicated by Sr.DPO/HYB in his letter dated 05.04.2019 and further direct the R1 to consider the applicant case for appointment of her daughter B. Sandhya under compassionate grounds in terms of Railway Board letter No. E(NG)1-2009/CR/2 dated 17.09.2010..”*



2. Facts of the case are that the husband of the 1<sup>st</sup> applicant joined as Yard Porter in SC Railway on 21.09.1983 and attained the status of Pointsman 'A' and rendered more than 21 years of service. He was issued with charge sheet for unauthorized absence for period of 359 days from 16.10.2000 to October 2001, for which an *ex parte* enquiry was conducted and the charges were held to be proved. Consequently, he was awarded the penalty of removal from service w.e.f. 01.10.2002. The order of removal could not be served on him as his whereabouts were not known. It is only after the death of the employee on 30.08.2006, the said fact came to light. The 1<sup>st</sup> applicant was paid family pension vide PPO order dt. 01.03.2017 pursuant to the direction of this Tribunal in OA 321/2014. Thereafter, the 1<sup>st</sup> applicant represented on 21.05.2017 to the competent authority to consider her daughter, the 2<sup>nd</sup> applicant, for compassionate appointment. The said request has been rejected vide order dt. 30.06.2017. Aggrieved, an appeal was preferred to the General Manager. As there was no response on the said appeal, the applicants approached this Tribunal vide OA 1157/2018 and the said OA was disposed of on 27.11.2018 at the admission stage directing the 1<sup>st</sup> respondent to dispose of the representation dt. 10.07.2017 in terms of the Railway Board Circular dt. 30.04.1979, circulated by CPO/SC Sl. Cir. No. 24/1997 dt. 10.02.1997. Accordingly, the 1<sup>st</sup>

respondent examined the request of the applicants and rejected the same vide order dt. 05.04.2019, which is impugned in the present OA.

3. It is contended by the applicants that the 2<sup>nd</sup> applicant passed X class and she is eligible for compassionate appointment. It is further contended that, even if she cannot be considered for regular appointment, she can at least be considered for engagement as substitute.



4. Respondents filed reply statement wherein it is stated that the husband of the 1<sup>st</sup> applicant, while working as Pointsman 'A' at Bosla Station had remained unauthorizedly absent from duties from 16.10.2000 for a period of 359 days continuously, for which, disciplinary action was initiated. Since the employee failed to acknowledge the communications sent to him, all the communications were posted in the notice board of Bosla Station and as the efforts made by them did not yield result into any chance of corresponding with him, disciplinary authority has taken exparte decision and imposed the penalty of removal w.e.f. 01.10.2002. Thereafter, the employee died on 23.06.2006. The 1<sup>st</sup> applicant filed OA 321/2014 for grant of compassionate allowance and gratuity. Pursuant to the orders of this Tribunal in the said OA, the competent authority examined the case and keeping in view the fact that the employee had remained unauthorized absent for about 1894 days in his service, passed orders on 23.09.2016 granting compassionate allowance @ 1/3 of the gratuity and 1/3 of pension notionally from 01.10.2002 so as to make the 1<sup>st</sup> applicant eligible for family pension w.e.f. 23.06.2006 in terms of instructions contained in

CPO/SC's SC No. 169/2008 and pension payment order was accordingly issued.

5. It is further stated by the respondents that, on the application of the 1<sup>st</sup> applicant dt. 21.05.2017, she was informed vide letter dt. 30.06.2017 that her daughter is not eligible to be considered for appointment on compassionate grounds as the deceased employee was removed from service as a measure of penalty due to unauthorized absence. However, the applicants filed OA 1157/2018 before this Tribunal and on the direction of this Tribunal in the said OA, the General Manager passed speaking order and the same was communicated to the 1<sup>st</sup> applicant vide letter dt. 05.04.2019. It is contended by the respondents that the compassionate appointment cannot be extended to the 2<sup>nd</sup> applicant as her father was removed from service as a measure penalty. It is further stated that as per the extant instructions (Master Circular No.16), compassionate appointment is permitted only when Railway servants lose their lives in the course of duty or get so crippled that they cannot do any work; when Railway employees die in harness while in service before retirement; and when an employee's whereabouts are not known for a period of seven years. They further state that there is no provision for offering appointment under compassionate grounds to the ward of railway servant, who is removed from service. Serial Circular No. 24/1997, dt. 10.02.1997 does not speak about providing compassionate appointment to the wards of employees who are removed from service. The 1<sup>st</sup> applicant approached the Railway administration requesting for compassionate appointment to her married



daughter after a long gap after the death of her husband. Therefore, no relief can be granted to the applicants.

6. Heard learned counsel for both sides and perused the pleadings on record.



7. The facts of the case are not in dispute. The husband of the 1<sup>st</sup> applicant was removed from service in 2002 for his unauthorised absence and subsequently, he died in 2006. On the directions of this Tribunal in OA 321/2014, the 1<sup>st</sup> applicant was granted compassionate allowance. She was also issued with Pension Payment Order. The applicants represented to the respondents seeking compassionate appointment in 2017, which was not acceded to by the respondents. Upon directions by this Tribunal in the earlier round of litigation in OA 1157/2018, the 1<sup>st</sup> respondent passed speaking order rejecting the request for compassionate appointment to the 2<sup>nd</sup> applicant on the ground that there is no provision for providing compassionate appointment to the dependent of the employee, who is removed from service

8. Thus, the main contention of the respondents is that the ward of the railway servant, who was removed from service as a measure of penalty, cannot be considered for compassionate appointment.

9. Hon'ble Supreme Court in *General Manager, State Bank of India & Ors. v. Anju Jain, (2008) 8 SCC 475* observed as under:

“31. We are of the view that both the Courts were wrong in granting relief to the writ petitioner. Appointment on compassionate ground is never considered a right of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per settled law, when any appointment is to be made in Government or semi-Government or in public office, cases of all eligible candidates must be considered alike. That is the mandate of Article 14. Normally, therefore, State or its instrumentality making any appointment to public office, cannot ignore such mandate. At the same time, however, in certain circumstances, appointment on compassionate ground of dependents of deceased employee is considered inevitable so that the family of the deceased employee may not starve. The primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of sole bread earner. It is thus an exception to the general rule of equality and not another independent and parallel source of employment.



32. In our opinion, therefore, if disciplinary proceedings have been initiated against an employee and the charges levelled against such employee are proved and he is punished, it is indeed a relevant consideration for not extending the benefit to dependent of such employee on the ground that he was punished. To us, it cannot be said that it is a case of double jeopardy or a dual punishment.

33. Compassionate appointment is really a concession in favour of dependents of deceased employee. If during his career, he had committed illegalities and the misconduct is proved and he is punished, obviously his dependents cannot claim right to the employment.”

14. In view of the above, the OA, being devoid of merits, is dismissed, with no order as to costs.

**(SUDHI RANJAN MISHRA)**  
**JUDICIAL MEMBER**

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