

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Original Application No. 180/00762/2017 &
M.A 930/2017**

Monday, this the 8th day of May, 2023

CORAM:

HON'BLE Mr. JUSTICE K. HARIPAL, JUDICIAL MEMBER

Renjith A.R,
aged 40 years, S/o.A.R.Ramesh (Late)
residing at Authal Parambil House
Thuravoor P.O
Cherthala, Alappuzha – 688 532

- Applicant

[By Advocate: Mr.P.Nandakumar]

Versus

1. Southern Railway represented by Divisional
Railway Manager
Thiruvananthapuram Division
Thycaud, Thiruvananthapuram – 695 014

2. Senior Divisional Personnel Officer
Thiruvananthapuram Division,
Thycaud, Thiruvananthapuram – 695 014

- Respondents

[By Advocate : Mr. S.Ramesh, ACGSC]

The application having been heard on 14.3.2023, the Tribunal
on 8.5.2023 passed the following:

ORDER

The applicant is aggrieved by rejection of his application for compassionate appointment submitted before the respondents consequent to the death of his father Shri.A.R.Ramesh who died in harness while working as Gangmate in Southern Railway. His father had passed away on 8.1.2014. His date of superannuation was 31.10.2014. On 26.6.2014, an application for compassionate appointment was submitted showing his educational qualification as 8th standard. He was born on 12.2.1977. Thus, on the date of demise of the father, he was 37 years old. The applicant claimed that he was depending on the income of the father, he is unemployed and does not have independent source of income. He had some errand works. The income from the same was not sufficient for livelihood. The application was rejected by Annexure A-4 order which is illegal. Thus, Annexure A-4 is sought to be quashed and a direction is sought against the respondents to consider the request of the applicant for appointment on compassionate grounds.

2. According to the applicant, the reasons shown in Annexure A-4 are not sustainable. The father had died leaving service till 31.10.2014.

The applicant does not have regular source of income and was fully depending on the income of the father. Family pension granted to the mother is also not sufficient for meeting both the ends.

3. The Original Application was filed along with an application for condonation of delay of 537 days in instituting the same. According to the applicant, he could not approach the Tribunal within one year from the date of issue of Annexure A-4 as he was suffering from major ailments relating to slipped disk and was under continuous treatment. In order to support the same, he has produced Annexure M.A-1 certificate and seeks condonation of 537 days delay in filing the O.A.

4. The respondents filed a reply statement disputing the averments in the affidavit filed along with M.A 930/2017 seeking condonation of delay. According to them, the impugned order, Annexure A-4, is dated 26.3.2015, but the O.A was filed only on 20.9.2017, after 30 months. Moreover, in Annexure M.A-1 medical certificate, the reasons for the period of absence is 'Kadugraham' and that a period of absence from duty certified by the Doctor is only two months. But he has taken 900 days in filing the O.A. Thus, the O.A is liable to be dismissed *in limine* as it is barred by limitation.

5. Further, according to them, the Original Application is liable to be dismissed on merits also as genuine reasons are not afforded for granting compassionate ground appointment. It is not another source of recruitment, but is an exception to the general rules. Compassionate ground appointment can be granted only to the eligible dependents of the deceased employee as per the rules, sons aged only up to 21 years have to be considered as dependents. At the time of death of Shri.A.R. Ramesh, the applicant had 37 years old and had qualification of pass in 8th standard alone. Minimum educational qualification for appointment in Government service is pass in 10th standard. The applicant was not a dependent of the deceased employee. Earlier he was a painter and then he is doing the job of supplying bakery items on commission basis. He is married and the income of the father was not necessary for his survival. Immediately after the death of the employee, an approximate amount of Rs.8,00,000/- was given to the wife by way of terminal benefits. Besides, she was granted an amount of Rs.6480/- plus dearness relief per month towards family pension. After the implementation of recommendations of 7th Central Pay Commission, the minimum family pension is Rs.9,000/- plus dearness relief.

6. The delay occurred in filing the O.A is to equip himself for acquiring educational qualification as matriculate. At present he is 40 years old, able-bodied and is duty bound to look after his parents. He is not entitled to get the benefit of the compassionate ground appointment scheme.

7. The O.A is not admitted as it was filed beyond the period of limitation. Thus M.A 930/2017 for condonation of delay has to be considered first.

8. The impugned order was passed on 26.3.2015. Therefore, ordinarily the O.A ought to have been filed on or before 26.3.2016. Along with the M.A for condonation of delay of 537 days, he has produced a medical certificate issued by one Dr.K.A.Soudha who has certified that the applicant is suffering from 'Kadugraham' and that she considers that a period of absence from duty of two months from 25.4.2017 is necessary for regaining his health. This certificate was issued on 25.4.2017. I fail to understand the purpose in producing a certificate dated 25.4.2017 for condoning the delay beyond 26.3.2016. To put in other words, no material document is available which prevented the applicant in approaching the Tribunal in time, i.e, on or

before 26.3.2016. The Annexure M.A 1 certificate dated 25.4.2017 does not serve any purpose at all. It is an idle exercise. This medical certificate does not support the reason that prevented the applicant from approaching the Tribunal in time. Necessarily the O.A preferred on 15.9.2017 is barred by limitation as satisfactory reasons are not shown for approaching the Tribunal on time.

9. On merits also, I have no doubt that the applicant is bound to fail. There cannot be any dispute that the reasons for rejecting the application for compassionate ground appointment are strange and mischievous. The reasons are as below:

“1. The employee has expired just a few weeks before the normal date of superannuation.

2. The employee is survived by his wife and two grown up children. The son for whom the appointment is sought is already 37 years of age and settled in life. The daughter is married and living with her only family.

3. The pension of the deceased employee would be enough for taking care of his wife.”

10. I am afraid, the above stated reasons cannot stand judicial

scrutiny. Admittedly, Shri. A.R.Ramesh had died on 8.1.2014 and his normal date of superannuation was 31.10.2014. That would falsify the statement that he had expired just a few weeks before the normal date of superannuation. Even if it is so, it is not known as to how that would make any difference as long as he had died in harness.

11. It is also not understood as to what is the importance of age of the applicant, as though there is upper age limit for appointment under compassionate appointment scheme. The third reason that the mother is getting pension also is an extraneous consideration under the compassionate appointment scheme. That means, the application was rejected for reasons which cannot be accepted by any judicial forum.

12. Fortunately, the respondents have not tried to justify these reasons in the reply statement. In the reply statement, they have taken reasonable stands which do not reflect the reasons communicated through Annexure A-4.

13. *De hors* reasons in Annexure A-4 and bar under limitation, for

reasons more than one, the applicant cannot succeed. Firstly, the Annexure A-2 application for compassionate appointment was submitted promptly on 26.6.2014 showing his educational qualification as 8th standard. As rightly pointed out by the respondents, at that time, he did not have minimum educational qualification for aspiring a post in Government, even under compassionate ground appointment scheme. Annexure A-3 indicates that thereafter he appeared for the secondary level examination held in October 2015 before the National Institute of Open School and passed out. To put it in other words, at the time of making Annexure A-2 application, he did not have minimum educational qualification to apply for a post in the Railways. What is relevant is his qualification on the date of submitting Annexure A-2 application.

14. Secondly, the scheme of compassionate appointment is intended to tide over the financial constraints caused due to the untimely demise of the bread winner of the family. The applicant must be able to say that he was depending solely on the income of the father, the untimely demise had caused deep financial crisis in the family and that without employment assistance, the family cannot

survive. It is true that it is stated that the applicant was depending solely on the income of the father. But at the time of death of the father, he was 37 years old and had married. On the face of it a statement that a 37 year old youth was depending solely on the income of the father does not stand to reason. Moreover, in the reply statement, it has been stated that earlier he was a painter, he is an earning member and that he is earning his livelihood by supplying bakery items. The applicant did not file any rejoinder contesting this statement.

15. Thirdly, here also the delay aspect has to be high-lighted once again. Had the applicant so serious about employment assistance and if the death of the father had caused constraints in the family and caused a penurious situation, he would not have delayed filing this application. That circumstance also militates against the arguments of the applicant.

16. Considering all these aspects, the applicant cannot succeed. M.A 930/17 for condoning delay is dismissed. Accordingly, the Original Application is also dismissed. No costs.

(Dated, this the 8th May, 2023)

JUSTICE K. HARIPAL
JUDICIAL MEMBER

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List of Annexures

Annexure A1 - A true copy of the death certificate dated 8.4.2014 issued by the corporation of cochin

Annexure A2 - A true copy of the application for compassionate employment submitted by the applicant

Annexure A3 - A true copy of mark list of the applicant issued by National Institute of Open Schooling

Annexure A4 - A true copy of Order No.V/Z 735/28/2014 dated 26.3.2015 issued by the 2nd respondent

Annexure M.A 1 - True copy of medical certificate dated 25.4.2017
