

CENTRAL ADMINISTRATIVE TRIBUNAL**CUTTACK BENCH****OA No. 268 of 2015****Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)**

Prasanna Kumar Behera, aged about 36 years,
 S/o Late Surendra Behera,
 At/P.O: Kudiari, P.S: Jatani, Dist: Khurda.

.....Applicant

VERSUS

1. Union of India, represented through its General Manager,
 East Coast Railway, Chandrasekharpur,
 Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer,
 East Coast Railway, Chandrasekharpur,
 Bhubaneswar, Dist-Khurda.
3. Divisional Railway Manager (P),
 East Coast Railway, Chandrasekharpur,
 Bhubaneswar, Dist-Khurda.

.....Respondents.

For the applicant : Mr. A. Kanungo, Counsel

For the respondents: Mr.T.Rath, Counsel

Order reserved on : 25.08.2020

Order pronounced on : 27.08.2020

O R D E RPer Mr. Gokul Chandra Pati, Member (A)

The applicant has filed the OA seeking the following reliefs :

- (A) *Direction and/or directions be issued to the respondents to release the leave salary, D.C.R.G. (Death cum Retirement Gratuity) and any other terminal benefits in favour of the applicant with 18% interest thereon.*
- (B) *Any other direction and/or directions be issued to the respondents appropriate under the circumstances as would deem fit and proper.*

2. The applicant claims to be the adopted son of Late Surendra Behera, who expired on 10.11.1998 while in service under the respondent railway as a peon. The applicant applied for terminal benefits and rehabilitation assistance to the respondents with the death certificate (Annexure-1 of the OA) and legal heir certificate (Annexure-2 of the OA). It is averred in the OA that although the applicant received the Provident Fund of the deceased

employee in February, 2000, but no action was taken by the respondents to release the rest of the benefits. On being advised about quarter vacation report, the applicant submitted all documents in 2014 although the quarter in question was abandoned since long. Thereafter, the applicant submitted representations for release of the terminal benefits in his favour. Copy of the representations dated 10.4.2014 and 29.5.2014 are at Annexure 9 and 10 respectively of the OA.

3. The respondents have filed their Counter, stating that the deceased employee late Surendra Behera was a bachelor and he had nominated the applicant for the purpose of the Provident Fund, declaring him to be his nephew and the said dues have been disbursed to the applicant. Regarding his claim for other service benefits, the papers submitted by the applicant to claim that he was the adopted son of the late employee, the matter was examined by the Law Officer of the respondents and it was decided that on the basis of the papers submitted, the applicant cannot be treated as adopted son of deceased employee. Then the applicant submitted the adoption deed (copy at Annexure-R/3 of the Counter) on 20.10.1999, which was also referred to Law Officer. A view was taken by the respondents that the said adoption deed cannot be accepted and the applicant was informed vide letter dated 21.5.2004 (Annexure-R/6). It is averred in the Counter that above facts have been suppressed by the applicant by not disclosing in the OA. It is also stated that the order dated 21.5.2004 (R/6) has not been challenged and that the OA is barred by limitation.

4. It is further stated in the Counter that the applicant has filed the Title Suit No. 39 of 2002 in the Civil Court which was sub judice and that filing of this OA amounted to forum hunting by the applicant, for which the OA is liable to be dismissed. It is also stated that the applicant's claim for possession of the quarter allotted to the late employee does not prove that the applicant is his adopted son.

5. No Rejoinder has been filed by the applicant. The OA was listed on 6.3.2020 for hearing and learned counsel for the applicant was heard. Thereafter, the OA was listed on 4.8.2020 and on 13.8.2020, when no one was present on behalf of the applicant. When it was taken up again on 25.8.2020, since no one was present for the applicant, the matter was considered under the rule 15 of the CAT (Procedure) Rules, 1987 and learned counsel for the respondents was heard. He reiterated the respondents' stand in the Counter and also submitted that the unregistered adoption deed dated 12.3.1996 (Annexure-R/3 of the Counter) submitted by the applicant to prove his claim that he was the adopted son of late

Surendra Behera, is legally not valid since it is not registered and on the date of signing the said unregistered deed on 12.3.1996, the applicant had crossed the age of 11 and his biological father has not signed the said deed. He further submitted that the applicant has failed to challenge the earlier rejection order dated 21.5.2004 (Annexure-R/6 of the Counter) in this OA. Learned counsel for the respondents also raised the point of suppression of facts as mentioned in the Counter.

6. The pleadings on record and submissions of the parties in this OA have been considered by me. The contentions of the respondents in the Counter have not been refuted by the applicant. In the OA, the applicant has not enclosed any document to show that he was the adopted son of late Surendra Behara, except enclosing the legal heir certificate issued by Tahsildar at Annexure-2 of the OA, which states that the applicant is the adopted son. Further, the contentions in the Counter regarding the letter dated 21.5.2004 (Annexure-R/6) issued by the respondents rejecting the claim of the applicant and the Title Suit No. 39 of 2002 have not been contradicted on record by the applicant by filing Rejoinder or otherwise. There is nothing on record to show that the applicant is pursuing same reliefs as sought for in this OA in the Title Suit. The applicant has also not disclosed about the said Title Suit in his pleadings.

7. In the facts and circumstances, I am of the view that the grounds advanced by the applicant and the documents furnished by the applicant do not call for any interference of the Tribunal at this stage. Since the applicant's claim has been rejected by the respondents on ground of the validity the adoption deed dated 12.3.1996 (Annexure-R/3) submitted by the applicant, it will be open for applicant to submit to the respondents a copy of a decree/order of the competent Court of law to prove that he is the adopted son of late Surendra Behera and in the event of submission of such decree/order, respondents will take appropriate action in the matter for release of terminal benefits as claimed in this OA in accordance with the law under intimation to the applicant.

8. The OA stands disposed of as above. There will be no order as to cost. Registry is to send a copy of this order to the applicant by post and give a copy to learned counsels for both the parties.

(GOKUL CHANDRA PATI)
MEMBER (A)