

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

OA No. 115 of 2019

Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)

1. K. Subhadra Patra, aged about 54 years, W/o Late K. S. Patra.
2. K. Manoj Patra, aged about 22 years, S/o Late K. S. Patra, Both are permanent resident of vill – Singadapalli, Post – Panditigam, PS – Khallikote, District – Ganjam, At present residing at Vil – Dalibati, PO – Paladhuapali, PS – Khallikote, District – Ganjam.
.....Applicant.

VERSUS

1. Union of India, represented through General Manager, South Eastern Railway, Garden Reach, Kolkata – 700024.
2. Divisional Railway Manager, South Eastern Railway, Hatia, Ranchi, Jharkhand – 834003.
3. Sr. Divisional Personnel Officer, South Eastern Railway, Hatia, Ranchi, Jharkhand – 834003.
4. Divisional Personnel Officer, South Eastern Railway, Hatia, Ranchi, Jharkhand – 834003.
.....Respondents.

For the applicant : Mr. P. K. Chand, Advocate.

For the respondents: Mr. T. Rath, Advocate.

Heard & reserved on :15.02.2021

Order on :16.03.2021

O R D E R

Per Mr. Swarup Kumar Mishra, Member (J)

The applicant by filing this OA, has prayed for the following reliefs under section 19 of the Administrative Tribunals Act, 1985:-

- (i) *To set aside the order/letter dt. 12.06.2018 as at Annexure A/11 to OA and to allow the application directing the Respondents to extend employment*

assistance on compassionate ground to the applicant No. 2

(ii) And further be pleased to pass and other order(s) as deem fit and proper in the fact of the case.

(iii) And for such act of kindness, the applicants shall as in duty bound ever pray.

3. The case of the applicants in brief as inter alia averred in the OA is that the applicant no. 1 being the widow and applicant no. 2 being the son of deceased employee i.e. late K. S. Patra who died on 02.04.2008 has filed this application praying for compassionate appointment in favour of applicant no. 2. The representation of the applicant was rejected vide annexure A/11 dated 12.06.2018 mentioning that “with reference to your application dt. 19.04.18 on the above subject, it has been examined and found that adoption deed dt. 08.02.2010 in favour of you is not in accordance with the law as per order dt. 17.05.11 issue No. II in C.S. No. 5/2010 by the Ld. Civil Judge (Sr. Div)/ Khallikota Odisha. As such employment assistance on compassionate ground cannot be extended in favour of you”.
4. The present applicants had instituted one civil suit C. S. No. 5 of 2010 before Ld. Civil Judge (Sr. Divn), Khalikote against one Adiamma Patra (Respondent No.1) and Railway as Respondent No. 2 praying for a decree declaring them as rightful heirs of deceased K. Sadhu Patra to receive all the service benefits accruing on the death of deceased K. Sadhu patra along with other equitable reliefs. The said suit was decreed exparte by the Ld. Civil Judge Senior division wherein finding was given in favour of the applicant no.1 that she is legally married wife of deceased employee. But no finding in favour of the applicant no. 2 with regard to his claim that he is adopted son of deceased employee was given by the said court on the ground that deceased employee K. Sadhu

Patra before his death had declared one K. Dippo Patra as adopted son and since K. Dippo Patra has not been made party in the said suit would be improper.

5. Thereafter applicant no. 1 had filed another suit C. S. No. 01/2012 in the court of Civil Judge (Sr. Division), Khallikote against Adiana Patra & A. Deepa Patra. Ex-parte decree was passed on 27.02.2013. It was submitted by learned counsel for the applicant that finding was given in favour of applicant no. 2 by the said judgment vide annexure A/5 but on perusal of said judgment it is seen that there is no specific and categorical finding by the said court in judgment vide annexure A/5 that the applicant no. 2 is son of deceased govt employee Late K. S. Patra. One succession case was filed by two persons namely Mosomat K. Aadiya Amma & Kora Deepa Patra wherein the present applicant No. 1 was respondent no. 3, the said succession case was dismissed as per annexure A/6 dated 28.11.2017. It is also ascertained from learned counsel for the parties that DCRG amount of the late govt employee K. S. Patra was released in favour of Smt. K. Subhadra Patra (applicant No. 1) as per order of decree dated 11.05.2011 .
6. The applicants had earlier filed one OA No. 197/2018 before this Tribunal. The said OA was disposed of by order dated 13.11.2020 with the following observation:

"13. In the factual circumstances of the case as discussed in preceding paragraphs and taking into consideration the fact that the representation dated 23.12.2017 (Annexure A/7) and dated 21.2.2018 (Annexure A/8) of the applicant no. 1 is pending, the respondent no. 1/competent authority is directed to consider the said representation by reviewing the decision that it is the case of two wives and take a fresh decision regarding the claim of the applicant to those representations in accordance with law keeping in mind the observation in this order and after giving opportunity of hearing to the affected parties, who may be advised to produce additional documents if required by the respondent no. 1/competent authority as per the provisions of the rules within a reasonable time and to pass a reasoned and speaking order, copy of which is to be communicated to the applicants and the affected parties within six months from the date of receipt of a copy of this order and till that time, status quo

regarding disbursement of family pension to the applicant no. 1 as on date will be maintained by the respondents.

14. The OA stands disposed of in terms of paragraph 13 above. There will be no order as to cost. “

7. Learned counsel for the applicant had submitted that the applicants had submitted legal certificate vide Annexure A/7, the competent authorities with the respondent department ought to have given due importance to the said documents and ought not to have rejected their claim merely on the ground that the finding in exhibit in Annexure a/4 by the competent court was not specifically to the effect that “applicant no. 2 is the adopted son of deceased employee”.
8. Since there is conflicting claim as to whether who is legally son of deceased employee, therefore in this circumstances the applicant, if so advised, should move the competent authority of respondent department along with relevant documents after obtaining legally acceptable documents including any declaration by competent court regarding the status of applicant no. 2 as claimed to be adopted son of deceased govt employee Late K. S. Patra. Thereafter, the competent authority i.e. Respondent no. 2 can be approached by the applicant so that they can consider the fresh application of the applicant in accordance with law after considering the relevant materials placed before them.
9. With the above observation the OA is disposed of. No costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(CSK)