

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

25.05.1992

(12)

OA 1922/90,

SHRI ASHWANI KUMAR

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT ...SH.S.KULSHRESHTHA

FOR THE RESPONDENTS ...NONE

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes

2. To be referred to the Reporter or not? No

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P.SHARMA, MEMBER (J)

The applicant, alleging himself to be adopted son of one late Shri Satish Chandra, who was posted as Senior Rakshak in Railway Protection Force, Tughlakabad died in harness on 20.6.1985 leaving behind the applicant as the only legal heir as adopted son of the deceased who was adopted according to Hindu customs and religion in 1972. On the death of the adoptive father, the applicant moved an application under Section 372 of the Indian Succession Act, 1925 for grant of a succession certificate before the Civil Judge, Aligarh mentioning himself as the adopted son of the deceased employee. The Court by its order granted the succession certificate and the respondents have duly acted on that certificate by dispersing the outstanding dues of the deceased employee.

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The applicant has also applied to the respondents for compassionate appointment as per the Railway Board's Circular No.E(NG)II/78/RCI/1 dt.7.4.1983 wherein a person, who dies in harness may be given an appointment. The respondents did not consider the application favourably and rejected the same by the impugned order dt.26.6.1989 that unless a Court issues an adoption deed ~~adopted date~~, the appointment cannot be made on compassionate ground. It appears what is meant by this is that the applicant should obtain a declaration from the Civil Court that he is the adopted son of the deceased employee, Satish Chandra.

The present order is assailed on the ground that the applicant even when he was getting education has shown the name in his parentage of the deceased Shri Satish Chandra showing him as adoptive father in the year 1979. Further it is also stated that since the Civil Court had already granted a succession certificate accepting the contention of the applicant that he is the adopted son of the deceased Satish Chandra, so in that event a further declaration under specific under Section 34 is not required at all.

The respondents contested the application and stated that the deceased died on 20.6.1985 leaving behind the applicant as only one son, here adopted son, as alleged by the applicant in his application. But the appointment on

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compassionate ground has been refused because the applicant
could not furnish an adoption ~~date~~^{deed}. Further it is also stated
that the applicant has not come within time and the deceased
has no family of his own because the applicant is only
surviving person as per the allegations made in the
application itself.

I have given a careful consideration to all these
aspects. Primarily the ~~reaction~~^{rejection} of the application on the
sole ground that no adoption date has been filed by the
applicant, cannot be justified. Under Hindu law, an adoption
is made, if reduced to writing, must be registered, but if
there is no adoption ~~date~~^{deed}, then the adoption cannot be said
not to have taken place because there is a custom as well as
sacrament in Hindu law for adopting a son for pious
obligation to be performed by the son in the event of the
death of the adopted ⁱⁿ father or mother, as the case may be.
Under Hindu law, adoption is one of the important customary
practices duly recognised by the law because it is said that
Moksha which is the ultimate aim of a person cannot be
attained without a son. Thus adoption can be also by a
unwritten document provided the ceremony ~~is~~ as provided under
Hindu law and faithfully carried on in letter and spirit.

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In view of this, the present application is allowed with the direction to the respondents to dispose of the application for compassionate appointment according to rules. The respondents shall dispose of the representation of the applicant, which he has to make before them within one month from the date of the order and if already a representation is pending with them, the same should be also disposed of within six months from the date of receipt of a copy of this order. The respondents are directed to dispose of the representation of the applicant in the light of the observations made in the judgement. If the applicant is still aggrieved by the order, he can again seek the remedy under the law. In the circumstances, the parties shall bear their own costs.

J. P. Sharma
(J.P. SHARMA) 25.5.92
MEMBER (J)
25.05.1992