

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 07th day of December 2000.

Original Application no. 845 of 1997.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member

Pradeep Kumar Bishwakarma, adopted son of late Pheku,
R/o 160/11, Babupurwa Colony, Kidwai Nagar,
Kanpur.

... Applicant

C/A ShriShesh Kumar

Versus

1. Union of India through Secretary Defence
Production, New Delhi.
2. General Manager, Ordnance Equipment Factory, Kanpur.

... Respondents

C/hrs Km. Sadhana Srivastava

O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri P.K. Bishwakarma-the applicant has come up seeking relief to the effect that the orders dated 22.9.1995, 12.8.1996, 18.2.1997 and 23.4.1997, copies of which have been annexed as annexure A-1 to A-4 respectively, be set aside and respondents be directed to provide suitable job to the applicant on compassionate ground. The applicant derives his right to request for compassionate ground on the strength of Godnama through which deceased Late Shri Pheku adopted him as his son and Shri Pheku died in harness while in the service of respondents as Blacksmith. The request

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of the applicant has been declined inter-alia on the ground that the dependents of the deceased-Pheku are ~~not~~ in distress and also on the ground that P.K. Bishwakarma cannot be given that benefit because he does not come within the zone of consideration under this head. For not having got his grievance ^{redressed} decided by the departmental authorities, the applicant has come up before the Tribunal, seeking the above reliefs.

2. The respondents have contested the case and filed the counter-reply.

3. Heard learned counsel for the parties and perused the record.

4. In this matter, first it is to be considered as to whether the applicant comes within the zone of consideration to claim the benefit of appointment on compassionate ground on the death of Shri Pheku and thereafter it is to be seen whether it is a fit matter where the applicant is to be provided a job to look after the family in distress.

5. It is not in dispute that natural father of Shri P.K. Bishwakarma - the applicant is Munnar Bishwakarma, who was nephew of deceased Pheku. Going through the development of events, it is found that when Shri Pheku filed his family names for the purpose of pension, he nominated his widow-Smt. Sudama Devi and also Pradeep-applicant

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and ~~his~~ younger brother Sandeep, and mentioned them to be his grandson, being son of his nephew. This nomination document is dated 16.4.1989. For G.P.F purpose, Late Shri Pheku filled in a form in which he narrated the applicant ~~Pradeep~~ and his younger brother as his 'Nati' and son of his nephew. Copies of these documents have been annexed as annexure C.A.-13 and C.A.-12 respectively. Copies of service record, as have been brought on record from the side of the respondents, shows that there is no mention that Shri Pheku ever mentioned Shri P.K. Vishwakarma as his adopted son and on every occasion, he described him to be his grandson, being son of his nephew. The respondents have also brought on record copy of the application moved by Smt. Sudami Devi-widow of Shri Pheku on 13.3.1995 in which she made a request for appointment on compassionate ground to Shri ^{Pradeep Kumar} ~~Pheku~~ and described him to be her grandson.

6. In the light of these events and mentions in the annexures as filed from the side of the respondents, an adoption deed is examined to ascertain its prima-facie genuineness and it is found that this adoption deed was not originally a registered document but, has specifically been got registered to bring legal sanctity to it but, the circumstances as have emerged from the facts of the case and as ^{have} ~~has~~ come up in the inquiry report, copy of which has been annexed with the C.A. as annexure 2-A, lead to a conclusion that adoption of the applicant is in dispute and cannot be taken as

conclusive and with this position, it would not be in the fitness of circumstances to direct the respondents to consider the case, taking him to be adopted son of deceased-Shri Pheku.

7. It is found that the application of Smt. Sudami Devi dated 16.7.1996 has been decided vide order dated 12.8.1996, copy of which has been annexed as annexure C.A.-2, which simply mentions that the prayer was considered sympathetically and was not found by the competent authority to accept the same. This order is very cryptic, non speaking and without conveying the grounds on which this conclusion has been drawn. Learned counsel for the respondents points out that the reasons have been explained in the C.A. but, I am not going to accept this argument because the pleadings cannot ^sbe supplement the contents of documents and, therefore, this impugned order dated 12.8.1996 is set aside. The competent authority is directed to re-consider the matter and decide the same within 3 months from the date of communication of this order by passing detailed, reasoned and speaking order. The O.A. is disposed of accordingly. No order as to costs.

Member (J)

/M.M./