

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 03rd day of December 2001

Diary no. 4815 of 2001

Original Application no. 1497 of 2001.

Hon'ble Maj Gen KK Srivastava, Administrative Member.

1. Smt. Lukhna Devi,
widow of late Praduman Upadhyay,
Head Clerk, Signal Wrokshop,
NE Rly., Gorakhpur,
R/o House no. 456-A Krishna Nagar,
Basaratpur, Distt. Gorakhpur.
2. Ganesh Upadhyay,
adopted son of Smt. Lukhna Devi,
r/o house no. 456-A Krishna Nagar, Basaratpur,
Distt. Gorakhpur.

... Applicants

By Adv : Sri US Mishra


Versus

1. Union of India, through Secy., Ministry of Railways,
New Delhi.
2. General Manager (NE Rly.),
Gorakhpur.
3. Chief Personnel Officer (Establishment),
NE Rly., Gorakhpur.
4. Signal Workshop, NE Rly.,
Cantt. Gorakhpur.

... Respondents

By Adv : Sri KP Singh

...2/-



ORDERHon'ble Maj Gen KK Srivastava, Member-A.

By this OA under section 19 of the Administrative Tribunals Act, 1985, the applicants have challenged the request for compassionate order dated 1.8.2000 (Ann. 1), rejecting the appointment of adopted son Sri Ganesh Upadhyay (Applicant no.2).

2. The facts in brief are that the applicant no. 1 is wife of late Praduman Updhayay who was posted as Head Clerk under Chief Workshop Manager, Signal Workshop, NE Railway, Gorakhpur. Sri Praduman Updhayay died on 29.3.1983 leaving behind applicant no. 1 Smt. Lukhna Devi. Applicant no. 1, adopted Sri Ganesh Updhayay (applicant no. 2) through a valid adoption deed under provisions of Hindu Adoption act. The said deed was registered on 11.11.1999. The applicant no. 1 approached the respondents for appointment of applicant no. 2 on compassionate ground. The application requesting for compassionate appointment of applicant no. 2 was sent to the respondents on 22.3.1999 followed by reminder dated 14.7.2000. The request for the appointment on compassionate ground was rejected by the impugned order.

3. Sri US Mishra, learned counsel for the applicant submitted that it is the responsibility of the respondents to ensure that the widow is looked after her husband died in harness by providing appointment to her son (applicant no.2) on compassionate grounds. The applicant no. 2 has been adopted through valid adoption deed which is registered. The applicant no. 2 is the only legal heir of applicant no. 1 and also late Sri Praduman Updhayay, husband of applicant no. 1 who was in the employment of the respondents. It has also been submitted by the learned counsel for the applicant that in case applicant no. 2

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is not provided a suitable job, it would be difficult for the widow of late Sri Praduman Updhayay to sustain herself. He finally submitted that though adoption has been made after the death of Sri Praduman Updhayay, husband of applicant no. 1, it does not alter legal position because he continues to be the legal heir of late Sri Praduman Updhayay.

4. Sri KP Singh, learned counsel for the respondents while contesting the claim of the applicants submitted that the present OA is not maintainable on the simple ground that death of Sri Praduman Updhayay occurred on 29.3.1983 and the request for compassionate appointment is being made after the lapse of 16 years. It is grossly barred by period of limitation. The second submission made by learned counsel for the respondents is that had the adoption been done during life time of the Railway employee, the applicant no.2 had every right to be considered for compassionate appointment. The adoption has been done by the widow of the Railway servant on 11.1.1999, after about 16 years of his death and, therefore, the applicants have no right to claim for compassionate appointment at this stage.

5. Heard learned counsel for the parties and perused the records. I have given careful consideration to the submissions made by learned counsel for the parties.

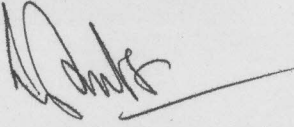
6. The death of Sri Praduman Updhayay took place on 29.3.1983. The widow of the deceased employee ~~has been~~ ~~receiving~~ ~~the terminal benefits and has~~ is receiving family pension regularly. I find force in the contention made by learned counsel for the respondents that had applicant no. 2 been adopted during the life time of the deceased employee, he had every right to be considered for compassionate appointment. But in the instant case the adoption has been

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made after about 16 years and, therefore, no right accrues to the applicant no. 2. There is no doubt that after adoption by the widow of the deceased employee, applicant no. 2 is ~~the~~ legal heir of ~~not~~ only widow but also of deceased employee, but this does not confer any right on him to claim compassionate appointment. ~~for the~~

7. In view of the above observations, I do not find any merit in the OA which is dismissed accordingly.

8. There shall be no order as to costs.



Member-A

/pc/