

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

THIS THE 23rd DAY OF OCTOBER, 2009

PRESENT :

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J

HON'BLE MR. S. N. SHUKLA, MEMBER-A

ORIGINAL APPLICATION NO. 671 OF 2001

(U/s, 19 Administrative Tribunal Act.1985)

OM Prakash Yadav, Son of Sri Hira Lal Yadav,
R/o 117/127 'N' Block Kakadeo, Kanpur Nagar.

.....Applicant

By Advocate : Shri S.K. Kulshratha

Versus

1. The Union of India, through the Secretary,
Ministry of Defence Production, New Delhi.
2. The Chairman Ordnance Factories Board,
10-Auckland, Calcutta.
3. The General Manager, Small Arms Factory,
Kalpi Road, Kanpur Nagar.

..... Respondents

By Advocate : Shri D.N. Mishra

ORDER

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

1. Heard learned counsel for the parties.
2. Applicant has claimed compassionate appointment through

this OA. Relief Claimed in para 8 of the OA reads:-

"In view of the facts and grounds mentioned above, the applicant prays before the Hon'ble Tribunal to declare that the act of the respondents in not appointing the applicant on compassionate ground is illegal, bad in law and against the provisions of natural justice, the applicant prays for following reliefs:-

- (a) To issue a writ order or directions in the nature of a writ of mandamus commanding the respondents to appoint the applicant on compassionate ground in the respondent no.3's Factory Small Arms Factory, Kanpur and/or to pass any such other suitable order or directions



which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

(b) To award cost of the petition."

3. The applicant claiming to be an adopted son of deceased employee (Hira Lal Yadav) has filed this OA contending that suit, filed for declaration of 'Adoption'; has been decreed in his favour. It is ^{at 62-41}to ~~e~~ noted that the Applicant (Om Prakash) filed original suit No.655 of 1994, Om Prakash Yadav Versus Ram Kumar Yadav, in the court of Civil Judge, Kanpur City for seeking decree to declare that he was duly adopted son of deceased employee (Hira Lal Yadav). Applicant obtained an Ex-parte Judgment and Order dated 25.3.1995, against his natural father/the sole defendant in the suit.

4. Respondents have filed counter affidavit and those facts have been categorically summarized vide para 5 to 8. In their counter affidavit respondents have stated that Hira Lal Yadav had no family of his own. His wife had pre deceased Heera Lal and that Ram Kumar (his own real brother) was sole nominee to receive G.P.F. etc.

5. Para 15 of the counter affidavit reads:-

"15. That in reply to the contents of paragraph nos. 4.5 and 4.6 of the petition, it is submitted that the compassionate appointment cannot be given as a matter of right. The real spirit of the scheme is to help the financially distressed family due to sudden demise of earning member. In this connection, it has to be observed that Late Heera Lal has no family. When there is no family, the question of providing compassionate appointment does not arise."

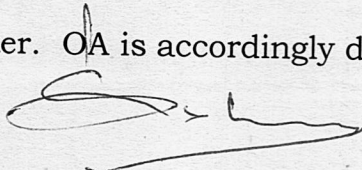
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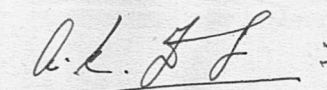
6. The attending circumstances of the case (not in dispute) show that there is no independent evidence to prove alleged adoption at relevant time. Nothing is brought on record to show that as to why the deceased employee/Hira Lal Yadav did not nominate his son for receiving payments after his death/retirement if he was his adopted son. More over, the applicant has himself filed copy of application/representation dated 20.05.1994, Annexure-2/compilation-II whereby he submitted his claim for compassionate appointment. Copy of application seeking compassionate appointment is dated 20.05.1994, Annexure A-2. Photostat copy filed does not show acknowledgement/receipt/endorsement of the respondent's office.

7. The applicant has also filed copy of High School certificate in which his Date of Birth is shown as 15.05.1976. This shows that he did not apply for compassionate appointment immediately after attaining majority. Evidently, the applicant waited to forge evidence, viz. High School Certificate-1996; etc. for the purposes of seeking compassionate appointment in collusion with his father Ram Kumar Yadav.

8. Be that as it may, about 18 years have already elapsed when employee had died. It is to be noted that applicant also attain majority (as per photo copy of his High School Certificate in the year 1994) i.e. 15 years ago.

9. In view of the above, we find no ground to interfere in the matter. OA is accordingly dismissed. No Costs.


Member-A


Member-J

/ns/