

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 30th day of March 2006.

Original Application No. 1334 of 2004.

Hon'ble Mr. K.B.S. Rajan, Member (J)

1. Vidya Devi, W/o late Somat,
R/o Deogarh Road, Mohalla Sewani,
Lalitpur.
2. Brij Mohan, adopted son of late Somat,
R/o Deograh Road, Mohall Sewani,
Lalitpur.

..... Applicant

By Adv. Sri B.N. Singh

VERSUS

1. Union of India, through General Manager,
Northern Central Railway,
ALLAHABAD.
2. Divisional Railway Manager,
Northern Central Railway,
JANSI.
3. Divisional Railway Manager (P),
North Central Railway,
JHANSI.

..... Respondents.

By Adv. Sri K.P. Singh


ORDER

The applicant is the adopted son of late Somat, a Railway employee who died on 18.10.2003 while in service. He had applied for compassionate appointment as per the extant rules. However, the respondents have in a mono syllable word rejected the case stating that it is not covered under the Rules. That is how this OA came to be filed.

2. Respondents have stated that as the adoption took place after the applicant crossed 15 years of the age the said adoption is invalid. Further, the adoption deed has not been registered.

3. The applicant in his rejoinder has stated that as per the custom prevailing in his community adoption beyond 15 years is permissible and even according to the provisions of Hindu Adoption and Maintenance Act 1956, where the customs permit, adoption beyond 15 years of age is legally valid. In so far as registration of the deed is concerned, at the time of hearing the counsel for the applicant relied upon the judgment of Madhya Pradesh High Court in the case of **Smt Chandrani Bai Vs. Pradeep Kumar, AIR 1991 (MP) 286.**

4. Arguments were heard and documents perused. According to the applicant adoption had taken place on 10.02.1989. However, the execution of adoption deed took place on 26.04.2006. Within six months thereafter, the adoptive father (Sri Somat) expired. In all expectations there must be some correspondence between the deceased Govt. servant and the respondents in regard to the intimation of adoption. The applicant perhaps may not be having any access to the same. A perusal of the personal records of late Somat by the respondents would confirm whether the factum of adoption was earlier made known by late Somat to the respondents.




5. The applicant has not substantiated his statement in the rejoinder that as per custom adoption beyond 15 years is permissible. It is for him to prove the same.

6. The OA is disposed of with the following direction:-

- a. The applicant shall inform the respondents about the customs in respect of adoption beyond 15 years. For this purpose he may substantiate with the help of documentary evidence if any or by way of affidavit from two sufficiently aged persons belonging to the applicant's community/caste who may explain the custom and also give details of precedence if any within their knowledge.
- b. On receipt of the above documents, the respondents may consider the same and simultaneously peruse their records about intimation if any by late Somat to the department about the fact of adoption.
- c. If the respondents are satisfied that the adoption by Somat of the applicant was bonafide, ignoring the requirement of registration, the applicant's case may be considered for compassionate appointment in accordance with law.

No cost.


Member (J)

/pc/