

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ALLAHABAD this the **31th** day of **JULY, 2007**.

HON'BLE MR. ASHOK S. KARAMADI, MEMBER- J.

ORIGINAL APPLICATION NO. 419 OF 2004

1. Smt. Lalita, wife of Late Lalit Kumar Singh,
R/o H. No. 7, Newada Colony, Nyaya Marg,
Ashok Nagar, Allahabad.
2. Virendra Singh, adopted son of Late Lalit Kumar Singh,
R/o H. No. 7, Newada Colony, Nyaya Marg,
Ashok Nagar, Allahabad.

.....Applicant.

VE R S U S

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, Lucknow.

.....Respondents.

Present for the Applicant: Sri **Sajnu Ram**
Present for the Respondents : Sri **Prashant Mathur**

ORDER

In this O.A, the application No. 1 is seeking direction to the respondents for appointment on compassionate grounds in favour of applicant no. 2.



2. Brief facts of the case are that the applicant No. 1 is widow of Late Lilit Kumar Singh and the applicant No. 2 said to be adopted son of applicant No. 1. The husband of the applicant No. 1 was appointed in the Railways on 04.10.1964 and he died on 12.10.1989 while in service. Admittedly, the deceased has not left any legal heir. Thereafter, the applicant No. 1 made a request for appointment on compassionate grounds in favor of applicant No. 2. Earlier it is stated that the applicant No. 2 shall be taken in to consideration as Nephew of the applicant No. 1 and subsequently it is stated that the applicant no . 2 to be treated and accepted as adopted son. Later on it is stated that the applicant No. 2 is adopted son of applicant No. 1. Based on these facts, the applicant No. 1 is making request to the respondents authorities for appointment on compassionate grounds. It is further stated that there are two Adoption Deeds, which are dated 09.05.1979 i.e. prior to the death of husband of the applicant No. 1 and subsequently dated 27.12.1991. It is the case of the applicant that the respondents have unnecessarily placing the claim that the adoption deed is not registered one and are insisting for the same, which is not required under the rules, hence stand taken by the respondents that the adoption deed is not registered one, cannot be accepted. Having regard to the fact, the respondents did not consider the claim of the applicant No.1 made before them vide their communication dated 10.01.1995 stating that the applicant No. 1 is required to send original copy of adoption deed. Even after the said communication, the applicant made several representations to the respondents' authorities and submitted Xerox copy of the adoption deed stating that the original adoption deed will be produced as and when require for consideration. Therefore, the respondents inspite of the communication dated 10.01.1995 and thereafter, representations made



by the applicant, they have not considered the case of the applicant No. 2 and hence this application is filed for seeking direction for appointment on compassionate grounds.

3. On notice, the respondents have filed Counter Affidavit. The respondents have admitted that the husband of applicant No. 1 was in service of the Railways and died while in service and thereafter, it is stated, the applicant No. 1 made request for appointment on compassionate grounds in favour of applicant No. 2 earlier stating that he is Nephew of her as they have no issue. Subsequently, the applicant No. 1 bring in to the notice of the respondent No. 2 that the applicant No. 2 is adopted son, who was adopted by the deed dated 09.05.1979 i.e. prior to the death of husband of the applicant No. 1 and subsequently by deed dated 27.12.1991. To consider the case of the applicant, the respondents requested her by communication dated 10.01.1995 and further it is stated that the claim of the applicant was considered by the respondents earlier vide order dated 14.06.1990 and another order dated 14.01.1992, which are produced alongwith CA. They have further stated that having regard to the said fact, the case of the applicant was rejected by the respondents after taking in to consideration the communication and other particulars submitted by the applicant.

4. On receipt of Counter Affidavit, the applicant filed RA reiterating the contention with regard to adoption deed that it is not necessary to be registered, therefore, the contention of the respondents is not tenable. With regard to the orders passed by the respondents on consideration of compassionate appointment on the request made by the applicant No. 1, any thing has not been stated in the Rejoinder Affidavit. Reiterating the

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same grounds as the respondents have not passed any orders subsequent to the communication dated 10.01.1995, hence seeks for the above relief.

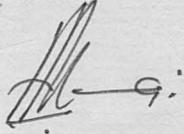
5. I have heard learned counsel for the parties, perused the pleading and material on record.

6. It is an admitted fact that the applicant No. 1 is the wife of the deceased, who was employee in the respondents' department and thereafter the claim was made for compassionate appointment in favour of the applicant No 2 by the applicant No. 1 stating the applicant No. 2 either as nephew or, in the alternatively, as adopted son. The respondents, on verification of the record and facts with regard to the truth, have not found the claim of the applicant No. 1 suitable and genuine and rejected the same stating that inspite of the twice request made to the applicant No. 1 to produce the original registered deed, they have filed Xerox copy of the same. Learned counsel for the applicant states that having regard to the communication made to the applicant to produce original adoption deed to the respondents' authorities for consideration of the claim of the applicant No. 2 on compassionate appointment, they had produced the Xerox Copy of the same and have stated that they will produce the original while considering the claim of the applicant No. 2 but inspite of that, the respondents have not considered the same thereby, they made repeated representations to the respondents but they have not considered the same hence the action of the respondents in not passing any order on the representation is not sustainable in law hence the direction may be given to the respondents.

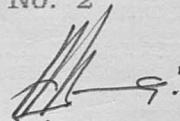
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7. With regard to the contention made by the applicant that they made repeated representations to the respondents, it cannot be said that the repeated representation will give the ground for making claim for compassionate appointment and the person concerned should have approached as early as possible within the time limit prescribed for. Having regard to the two orders passed by the respondents, it is seen from the documents produced by the respondents alongwith CA, inspite of that, the applicant No. 1 has not stated any thing in the O.A. After the Counter Affidavit, in the RA it is stated in paragraph 6 that the husband of the applicant No. 1 died on 12.10.1989. A photocopy of adoption deed was attached with the application for appointment of her adopted son on compassionate grounds. Thereafter in para 7, it is stated that in her rejoinder application, about the applicant No. 2 might have written by the person who had written her application, 'nephew' instead of adopted son. Even though, after CA, RA is filed by the counsel for the applicant, with regard to the orders passed by the respondents, which are dated 14.06.1990 and 14.01.1992 nothing have been stated about these two orders. This clearly goes to show that nature and conduct of the applicant No. 1, who has filed this O.A, is not fare to accept the contentions and submissions.

8. Having regard to the fact, earlier the applicant No. 1 made efforts for compassionate appointment in favour of applicant No. 2 as he is 'nephew' of her and subsequently it is stated that he is adopted son but this fact was also stated in the RA that this is a mistake of fact. But having regard to the fact that there are two adoption deed produced by the applicants, which are stated to have come in existence on 09.05.1979 i.e. during life time of husband of the applicant No. 1 and subsequently



dated 27.12.1991. Both are documents, which apparently go in favour of the applicant No. 2 but the question whether these documents are helpful in getting the appointment on compassionate grounds in favour of applicant No. 2. The respondents have considered the request of the applicant No. 1 with regard to the compassionate appointment in favour of the applicant No. 2. Having regard to the CA and the averments made by the applicant , it can be gathered that the applicant has made request on behalf of applicant No. 2 for compassionate appointment. That being so, the respondents had already taken decision with regard to applicant No. 2. Having regard to the fact that the applicant made subsequent representation, the respondents have directed to produce original adoption deed but the applicant No. 1 did not file the same and continued in making representations to the respondents for getting compassionate appointment for the applicant No. 2. Having regard to the fact that the respondents have already taken decision in the matter, without challenging the said order, the applicant No. 1 has filed this O.A. It is well settled that repeated representation will not give any right to an individual to claim compassionate appointment at any time. Reliance on Supreme Court is made while considering the case of the applicant is concerned, in that case, the applicant was handicapped , whose case was not considered, therefore, Hon'ble Supreme Court has stated that the case should have been considered by the respondents. Hon'ble Supreme Court has said that the applicants, who are seeking appointment on compassionate ground to establish that they have vested right to claim such appointment. Having regard to the fact that the respondents have already taken in to consideration the status of the family of the applicant after due verification, therefore, the decision of the respondents with regard to the compassionate appointment in favour of applicant No. 2



cannot be said to be illegal one. Having regard to the fact that the body, which is constituted, had considered the case after due verification of the records. With regard to the order dated 25.05.2005, by the said order, the respondents were directed to make available for perusal the relevant record containing the application for compassionate appointment made in 90s and their consideration and ultimate rejection. It appears that the case of the applicant was considered and inspite of two orders passed by the respondents, that have not been challenged. The respondents in their CA have stated that after taking into consideration and verification and the contention made by the applicant in her representation, her claim was not found genuine one for grant of compassionate appointment. It is further stated that Railway Board Circular No. 16 dated 31.11.1999 with regard to compassionate appointment provides statutory right for such appointment. This contention cannot be accepted as the respondents have already passed the order on considering the request made by the applicant No. 1 on 14.06.1990 and 14.01.1992 by giving reasons, in that view of the matter, this O.A is not maintainable and the applicants have not made out a case for grant of the relief claimed. The contentions of the respondents are acceptable.

9. In view of the forgoing discussions, I find no force in the claim of the applicant and the O.A is accordingly dismissed with no order as to costs.



(ASHOK S. KARAMADI)
MEMBER - A

/Anand/