

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 609 of 1995

Allahabad this the 31st day of August 1998

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

1. Smt. Madhury Henry W/o Late K.G. Henry R/o 820 A  
New Central Colony, Mughalsarai, Varanasi.
2. Navin Kumar Henry S/o Late K.G. Henry R/o 820 A  
New Central Colony, Mughalsarai, Varanasi.

Applicants

By Advocate Sri S.K.Dey/S.K.Misra

versus

1. Union of India through the General Manager, Eastern  
Railway, 17 Netajee Subhash Road, Calcutta-1.
2. The Divisional Railway Manager, Eastern Railway,  
Mughalsarai, Varanasi.


Respondents

By Advocate Sri A.K.Gaur

O R D E R

By Hon'ble Mr. S.K. Agrawal, MEMBER (J)

In this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer that the respondents be directed to appoint the applicant no.2 on compassionate grounds.

-  2. In brief the facts of the case as stated by the applicant are that the applicant is the legally wedded wife of deceased - Late K.G. Henry and applicant no.2 is the adopted son of deceased Late K.G. Henry who was employed as Electric Turner under Electric Foreman T.R.S. Eastern Railway, Mughalsarai. It is submitted that in the course

of employment Sri K.G. Henry developed a serious decease in October, 1988 and because of no improvement, he was declared medically unfit w.e.f. 05.10.1989 whereas his date of retirement was 31/5/96. Sri K.G. Henry was discharged on the ground of invalidation w.e.f. 06.10.89. Thereafter, he applied for the appointment of Sri Navin Kumar Henry vide application dated 12.7.90, who was brought up by him since June, 1978 but, respondents did not pay any heed to his application. Thereafter, he made another application dated 03.12.90. It is submitted that vide application dated 28/29.4.92, the application for appointment on compassionate ground was rejected on the ground that adoption is unknown to christians and, therefore, applicant no.2 cannot be considered as adopted son of deceased - K.G. Henry who died on 01.7.92. It is, therefore, requested that respondents be directed to appoint the applicant no.2 in railway service on compassionate ground.

3. The counter-affidavit was filed by the respondents. In the counter, it is admitted that Sri K.G. Henry was discharged from the railway service on the ground of infalidation w.e.f. after completing the age of 51 years 5 months and subsequently he expired on 01.7.92. It is also admitted that Sri K.G. Henry during his life time had applied for appointment of Sri Navin Kumar Henry on compassionate ground stating that Sri Navin Kumar Henry is his adopted son. The matter was referred to Senior Law Officer and as per his opinion, the case for the appointment of Sri Navin Kumar Henry was rejected by the competent authority and a reply was sent to Sri K.G. Henry-ex.employee of the railways vide letter no.CS/CA/43/91, dated 29.4.92 by registered post. It is also submitted that there was no relation of husband and wife between the applicant no.1 and ex.employee-K.G.Henry

and they were living separately. It is denied that any application dated 03.12.90 was filed by the ex-employee, who has informed the department during his life time that his wife has deserted to him and she has no right to receive any benefit of his service, therefore, the petition for appointment on compassionate ground is not maintainable. In view of the facts mentioned in the counter-affidavit, respondents submitted that applicant no.1 is not entitled to compassionate appointment for Sri Navin Kumar Henry - applicant no.2


4. The rejoinder has also been filed and it was reiterated that Sri Navin Kumar Henry was brought up by the ex.-employee. It was admitted that Sri K.G. Henry and his wife living separately but no divorce or judicial separation took place. It was stressed that husband of the applicant become disabled, therefore, his adopted son is entitled for compassionate appointment.

5. Heard, the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

6. Learned lawyer for the applicant has contended that applicant no.2 - Navin Kumar Henry is the adopted son of ex-employee - Sri K.G. Henry and in support of his contention he has drawn my attention towards a copy of Will at annexure-A-6. On the other hand learned lawyer for the respondents has strongly objected to the request of the applicant for compassionate appointment of Sri Navin Kumar Henry - applicant no.2 on the ground that adoption is unknown to christian, therefore, on the basis of ann.-A-6 it cannot be established that Sri Navin Kumar Henry is the adopted son of Sri K.G. Henry.

7. For adoption of the applicant no.2, no documentary evidence like Adoption-Deed etc has been produced. No oral evidence has also been produced to prove the fact of adoption. Adoption is unknown to Muslims and Parsis. Likewise, learned lawyer for the respondents has submitted that adoption is also unknown to Christians. Learned lawyer for the applicants failed to establish that applicant no.2 - Sri Navin Kumar Henry was validly adopted son of ex.employee-K.G. Henry. He failed to submit any legal support for his contention. Since it could not be established by the applicant that in Christians, there is any legal provision for the adoption and if so, how valid adoption can be effected. On the other hand, learned lawyer for the respondents has vehemently submitted that adoption is unknown to Christians and document at annexure A-6 is only a Will not the Adoption Deed. Therefore, on the basis of document in question, the applicant no.2 - Sri Navin Kumar Henry cannot be said to be adopted son of ex.employee-Sri K.G. Henry. On behalf of the applicants, it could not be established that family of ex.employee - K.G. Henry is facing with indigent circumstances, therefore, on the basis of facts and circumstances of this case, the applicant no.2 is not entitled to be appointed in railway service on compassionate grounds.

8. Therefore, this O.A. is dismissed. No order as to costs.

  
Member (J) 31/8/58

/M.M./