

**RESERVED**

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
BENCH ALLAHABAD**

**(THIS THE 18<sup>th</sup> DAY OF December , 2014)**

**Present**

**HON'BLE MS. JASMINE AHMED, MEMBER (J)  
HON'BLE MR. U.K. BANSAL, MEMBER (A)**

**Original Application No.754 OF 1999**  
(U/S 19, Administrative Tribunal Act, 1985)

Praveen Kumar, Son of Shri Kailash Nath,  
Resident of Village Subhanpur, Post Office-Billhore,  
District-Kanpur Dehat.

.....Applicant

**V E R S U S**

1. Union of India, through Secretary Ministry of Railway, New Delhi.
2. Manager Personnel, Bareilly Mandal Railway, Izzatnagar, Bareilly.
3. Assistant Engineer, Rail Path, Nirichak, Northern Railway, Phatehgarh.

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.....Respondents

**Advocates for the Applicant:-**

**Shri Rakesh Verma  
Shri Narendra Srivastava**

**Advocate for the Respondents:-**

**Shri Bashist Tewari**

*Jasmine Ahmed*

## O R D E R

### DELIVERED BY MS. JASMINE AHMED, MEMBER (J)

The applicant who is an adopted son of the deceased Shri Kailash Nath, who was employed as class IV employee on the post of Gatekeeper under respondent no.3 and he was also a confirmed employee of the respondents.

2. It is the contention of the counsel for the applicant that the deceased employee adopted the applicant in accordance with law by adoption deed which was registered on 27.3.1987 and at that point of time the applicant was a minor and was about seven years of age his Date of Birth being 25.3.1980. The said Shri Kailash Nath died on 28.8.1997 while in service leaving behind the applicant as his only legal heir as the wife of Shri Kailash Nath died before his death. After the death of the deceased the applicant made representation in January 1998 to the concerned authorities requesting for grant of compassionate appointment to him. In pursuance of the representation the respondent no.2 asked the applicant by letter dated 6.7.1998 to furnish registered copy of the original adoption deed and accordingly the applicant personally submitted the original adoption deed on 16.7.1998 to respondent no.2. But no action was taken on the representation of the applicant even after furnishing of the original adoption deed and the applicant made another application/representation on 24.8.1998 to respondent no.2. Even the applicant sent a legal notice through his

Jasmine Ahmed

counsel to respondent no.2 on 12.10.1998 requesting for grant of compassionate appointment to him and the retrial benefits and also other benefit admissible to him on account of the death of his father. But the respondent no.2 by his letter/order dated 23.11.1998 informed the petitioner that the original adoption deed does not bear the signatures of the original parents of the applicant hence on the basis of this adoption deed he cannot be offered any compassionate appointment. After getting this letter the petitioner sent an affidavit of his original father namely Radhey Shyam and mother Smt. Nirmala Devi by registered post to respondent no.2 to show and establish that the consent of his original parents was taken and given at the time of his adoption by Shri Kailash Nath and it was also submitted by way of an application dated 4.12.1998 through the counsel for the applicant that there is no provision mentioned under Hindu Adoption Act 1956 requiring signatures of the original parents of the person who is being adopted on the original adoption deed and it was also mentioned in the application that the voluntary consent of the original parents were there hence not offering the compassionate appointment taking this plea of not having signatures of original parents is vague and contrary to law, hence illegal and arbitrary. The counsel for the applicant also stated that the applicant passed 8<sup>th</sup> standard in 1996 from Shri Maiku Lal Junior High School Chathen, Post Office Aurotahirpur Kakwan, Kanpur Dehat and the name of the father of the applicant in the marksheets is shown as Shri Kailash Nath. He also contended that Shri Kailash Nath had taken

*Jasvinee Ahluw*

Life Insurance Policy No.21131356 in the name of the applicant in his life time and has also purchased a piece of land by Registered sale deed executed by Shri Ambika Prasad on 22.2.1988, also the deceased employee was issued a Railway pass in the year 1997 by the respondents and the name of the applicant is figuring in the aforesaid Railway pass as adopted son and also shown as family member of the deceased Shri Kailash Nath. The counsel for the applicant in this regard states that the respondents had issued the aforesaid pass after having duly verified this fact of applicant's being adopted son and also a family member of the deceased. Even the name of the applicant is shown as son in the ration card which was issued to the deceased and after the death of Shri Kailash Nath the new ration card has been issued by the authorities after proper scrutiny, in the name of the applicant as son of Shri Kailash Nath. Hence not offering the compassionate appointment by the respondents on the basis of the adoption deed in respect of the applicant is illegal and invalid as wholly without substance being illegal and arbitrary to the provisions of Hindu Adoption and Maintenance Act. The counsel for the applicant stressed that there was no legal requirement and necessity under the provisions of Hindu Adoption and Maintenance Act about the signatures of the original parents of the person who has been adopted by the adoption deed. The counsel for the applicant also states that this matter was unfortunately dismissed in default by order dated 13.2.2004 and the restoration application was also dismissed in default on 3.3.2008. After that the applicant challenged

*Tasneem Ahamed*

both these orders before the Hon'ble High Court of Allahabad by Civil Misc. Writ Petition No.27376 of 2008. The Hon'ble High court was pleased to quash the aforesaid two orders dated 3.3.2008 and 13.2.2004 and passed the direction that the original application shall be restored and be heard on merits by order dated 01.10.2012. The counsel for the applicant also states that the applicant has also filed the clear legible copy of the original adoption deed as per the order of this Hon'ble Tribunal.

3. In contra the counsel for the respondents opposes the contention of the counsel for the applicant and states that the applicant was not validly adopted by the deceased employee hence he cannot get the advantage of getting compassionate appointment.

4. The respondents are only relying on the issue of not having the signature of the original parents in the adoption deed though they themselves have provided all the facilities to the applicant who is the adopted son of the deceased employee Shri Kailash Nath. Even their own circular dated 11.12.1996 (R.B. No.125/96, SC. No.19 to 1.3.16) which is a decision for appointment on compassionate grounds to the adopted sons/daughters reads as under:-

*Jasmine Alum*