

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 02nd day of March 2005

Original Application no. 173 of 2002

Kaptan Singh, S/o Late Babu Lal
R/o Vill Dala Gaon (Bachit Purwa) Post Sunderpur Gajan
Distt : Kanpur.

...Applicant

By Adv : R.K. Srivastava

V E R S U S

1. Union of India through its General Manager,
Northern Railway Baroda House,
NEW DELHI.
2. The Divisional Railway Manager,
Northern Railway,
ALLAHABAD
3. The Divisional Engineer, Railpath,
Northern Railway, Phaphund,
ETAWAH.

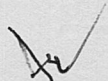
...Respondents

By Adv : Sri A.K. Gaur

O R D E R

By A.K. Bhatnagar, JM

By this OA the applicant has prayed for setting aside the impugned order dated 08.08.2001 passed by the Divisional Railway Manager, N. Rly., Allahabad (Ann A7 to the OA) with a further direction to the respondents to appoint the applicant on any suitable post on compassionate basis in place of late Babu Lal, who died in harness on 09.07.1994 leaving behind the applicant as adopted son and pay him regular salary month to month.



2. The brief facts of the case as per the applicant are that the father of the applicant late Sri Babu Lal while working as Gangman in the respondents establishment died on 09.07.1994 leaving behind the applicant as sole dependent as well as legal heir being his adopted son. Thereafter, he represented vide letter dated 22.03.1996 praying for the dues admissible after the death of his father as well as for compassionate appointment in place of late Babu Lal being his adopted son. He was informed by letter dated 16.5.1996 to submit the succession certificate from the Competent Court of Law so that the payment could be made. He submitted the succession certificate (Ann A3 dated 18.10.1996) for the same and on that basis he was ultimately granted the settlement dues of late Babu Lal.

When no action was taken by the respondents for appointing him on compassionate ground he filed an OA 171/2001 Kaptan Singh Vs. U.O.I. and others which was disposed of by order dated 25.04.2001 by a direction to the respondents to decide the applicant's claim of appointment on compassionate ground within four months from the date of communication of the order. In compliance of the above order the respondents passed the impugned order dated 08.08.2001 rejecting the claim of the applicant (Ann A7). Hence he filed this OA.

3. Learned counsel for the applicant pressed his claim on the grounds given in para 5 sub para a to j of the OA and submitted that while the respondents have released the retrial benefits of late Babu Lal in

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favour of the applicant on the basis of succession certificate and adoption deed. On the other hand he was deprived of his right to be appointed on compassionate ground in place of late Babu Lal being his adopted son. He has also pointed out that in the High School certificate as well as in Transfer Certificate filed as ann 12 & 13 to the OA the father's name of the applicant are shown as Babu Lal (deceased). He has also filed an adoption deed as (annexure A14 to the OA) dated 20.04.1994 attested by Public Notary. But the respondents passed the order rejecting the claim of the applicant without considering the above mentioned certificates. The applicant also relied on the certificate issued by District Magistrate Kanpur dated 18.08.1994 (Ann A14 to the OA). The applicant's counsel finally submitted that the action of the respondents, by not granting compassionate appointment to the applicant treating him to be an adopted son of late Babu Lal, is clearly illegal and therefore, deserves to be quashed.

4. Resisting the claim of the applicant the respondents have filed counter affidavit and submitted that the deceased employee late Babu Lal was a bachelor. A request for compassionate appointment was made by the applicant on the ground that he is adopted son of the deceased but no registered adoption deed could be produced by him at the time of making the above request. The applicant has filed a adoption deed written before a notary which cannot be treated valid in the eyes of law. While the Railway Board vide letter No E(NG) II/86/RC-1/1/Policy dated 20.05.1988 has provided that an adopted son/daughter

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will also be eligible in case the following conditions are satisfied:

- a. There is satisfactory proof of adoption valid legality.
- b. The adoption is legally recognized under the personal law governing the Railway Servant.
- c. The legal adoption process has been completed and has become valid before the date of death/medical decategorisation /medical incapacitation (as the case may be) of the ex-employee.

The learned counsel for the respondents further submitted that late Babu Lal died as a bachelor having no liability and the applicant was not legally adopted son of the deceased. The learned counsel for the respondents further submitted that the payment of settlement dues is obligatory to the legal heirs/heirs of the deceased employee which were paid to the applicant only on the basis of succession certificate issued by competent Court of Law. It is wrong to say that the payments were released treating the applicant as his adopted son. The certificate issued by the District Authorities has only been issued for payment of Rs. 5000/- only but not exceeding to it and cannot be treated as an authentic proof of adoption. ~~Since~~
 The ex-employee was a bachelor and he never declared the applicant as his adopted son in the official records in the tenure of his service. The High School and Transfer Certificate showing the name of applicant's father as Babu Lal does not confer any right to the applicant for appointment on compassionate ground treating him as his adopted son.

5. I have heard the learned counsel for the parties and perused the record.

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6. Admittedly, late Babu Lal died while serving in the department as a bachelor. The applicant, thereafter, represented for the retrial benefits of the deceased employee and for compassionate appointment also. It is also an admitted fact that the payment of ex-employee Babu Lal was released in favour of the applicant only on the basis of succession certificate issued by the Competent Court of law. I have also gone through the adoption deed filed by the applicant (Ann A14). It is a document written on a 10 rupees stamp paper before the notary which has been filed by the applicant claiming his entitlement to be appointed on compassionate ground being adopted son of the deceased employee. This document is admittedly not a registered adoption deed. I have also gone through Ann A7 impugned order dated 08.08.2001 which I find a detailed and reasoned order. In which it is clearly stated that since no legal adoption prior to 09.07.1994 was executed by the ex-employee during his life time while in service and he has also not left any liability. Thus it makes you not eligible to be considered for compassionate appointment under rules. The applicant could not fulfilled the conditions mentioned in para 1, 2 & 3 on page2 of the order. So the applicant cannot be treated as a legally adopted son. Therefore, he is not entitled for compassionate appointment as per extent rules.

7. After giving careful consideration to the arguments advanced by the counsel for the parties and

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considering the facts and circumstances of the case I find no illegality in the order dated 08.08.2001 passed by the respondents and it requires no judicial interference.

8. In view of the above the OA is dismissed with no order as to costs.


Member (J)

/pc/