

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

AT NAINITAL

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original Application No. 404 of 2003 (U)

this the 24th day of April 2003.

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER (A)
HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Ashok Kumar, S/o Sri late Amar Singh, R/o Village Shikarpur,
P.O. Landhuara, District Haridwar.

Applicant.

By Advocate : Sri P.S. Rawat for Sri L.P. Singh.

Versus.

1. Regional Manager, Northern Railway, Moradabad U.P.
2. Zonal General Manager, Northern Railway, New Delhi
Dhaulpur House, New Delhi.
3. Union of India through Secretary, Ministry of Railway.

Respondents.

By Advocate Ms. Krishi Shukla.

ORDER

MRS. MEERA CHHIBBER, MEMBER (J)

By this O.A., applicant has sought quashing of the order dated 19.12.2001 whereby his request for compassionate appointment has been rejected (page 14). The applicant has further sought a direction to the respondents to appoint the applicant on the basis of dying in harness rule according to his qualification in the department with all consequential benefits.

2. It is submitted by the applicant that his father late Sri Amar Singh died on 28.10.95 leaving behind his widow and the applicant, adopted son. It is submitted by the applicant that he was only three years old when with the consent of his parents the deceased late Sri Amar Singh and his wife adopted the applicant as per their custom as

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he belongs to Scheduled Caste. He was adopted as back as on 19.11.1976. After the death of his father, he applied for compassionate appointment wherein his mother had given her affidavit reiterating the facts as stated by the applicant. However, no reply was given to the applicant, therefore, he filed a Civil suit no. 181/99 before the Civil Judge (Jr. Div.), Roorkee, Haridwar for declaration and a decree was passed on 16.12.2000 by the Civil Judge, (Jr. Div.), Roorkee, Haridwar, declaring that the applicant is the adopted son of late Sri Amar Singh (page 24). The applicant submitted the decree alongwith his application dated 20.12.2000 requesting the respondents to grant him compassionate appointment (page 31), but vide order dated 19.10.2001 the respondents informed the applicant that his case cannot be considered for grant of compassionate appointment as his adoption deed is not valid (page 14). Thereafter, the applicant sent a legal notice also on 28.6.2002 (page 33) but no reply has been given on the said notice, therefore, finding no other alternative, the applicant had to file the present O.A.

3. We have heard the applicant's counsel and perused the pleadings as well.

4. This case was listed on 22.4.2003 when we had given 8 line to the respondents' counsel Ms. Krishni Shukla to take instructions from the department as she had appeared on behalf of the respondents. Today, she was seeking time to file Counter reply, but we do not think that there is any necessity to call for Counter from the respondents at this stage because we are satisfied that the impugned order is liable to be quashed and set-aside as it is an absolutely non-speaking order and has been passed in a mechanical and cryptic manner without giving any reasons what-so-ever.

5. The Hon'ble Supreme Court has repeatedly held that

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whenever a representation or an appeal is filed to the authorities, the least that is expected from them is that they should pass a reasoned and speaking order so that it can satisfy the applicant or the person concerned at that relevant stage without dragging him un-necessarily to the court of law. It goes without saying that two lines order as passed in the instant case, without giving any reason to the applicant as to why his adoption has not been found to be valid is not sustainable as in absence of reasoned order, he cannot challenge the same effectively. Accordingly, we are quashing the order dated 19.10.2001 and remitting this matter back to the authorities to consider all the facts and legal submissions as stated in the O.A. and then pass a reasoned and speaking order on the claim made by the applicant within a period of three months from the date of receipt of copy of this order under intimation to the applicant.

6. With the above direction, this O.A. stands disposed off at admission stage itself with no order as to costs.



MEMBER (J)



MEMBER (A)

GIRISH/-