

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 31st DAY OF JULY 2009)

Hon'ble Mr. A. K. Gaur, Member (J)

Original Application No. 1019 of 2006

(U/S 19, of the Administrative Act, 1985)

Suneel Kumar adopted son of late Smt. Sushila Devi C/o Jagdish Singh House No. 562 Paliwal gali, Bholupur, Fatehgarh, Farrukhabad.

.....Applicants

By Advocates:- Shri R. K. Rathor

Versus

1. Union of India through General Manager (Personnel) North Eastern Railway Gorakhpur.
2. Divisional Railway Magager (Karmik) Izzatnagar, Bareilly.

.....Respondents

By Advocate:- Sri Anil Dwivedi.

ORDER

DELIVERED BY HON'BLE MR. A. K. GAUR, MEMBER (J)

I have heard Shri S. Kumar holding brief of Shri R.K. Rathor and Shri Anil Dwivedi learned counsel for the respondents. Learned counsel for the applicant would contend that Competent Authority while rejecting the case of the applicant for appointment on compassionate ground has not taken into account the judgment given in Suit No. 204 of 1999 by the Court of Additional Civil Judge

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(Senior Division) in which it has clearly been held that the Suneel Kumar is adopted son of Smt. Suhila Devi. The competent authority while rejecting the case of the applicant has not at all taken into consideration the decision of the Civil Court rendered in Civil Suit No. 204 of 1999.

2. Mr. Anil Dwivedi learned counsel for the respondents invited my attention to para 13 and 14 of the Counter Affidavit and submitted that the adoption deed is not legally valid as the deed is not registered and the same is not in accordance with para 3 of the Railway Board's letter dated 20.05.1988. Moreover Smt. Sushila Devi had never informed any of the Railway authority about her so called adoption of the applicant.

3. I have heard Shri S. Kumar holding brief of Shri R.K. Rathor and Shri Anil Dwivedi learned counsel for the respondents.

4. Having given to my anxious thought to the pleas advanced by the parties counsel I do not find any justification for passing order dated 09.12.2005 by the respondents, since there is a decision of Civil Court in which it has clearly been held that the applicant is adopted son of Smt Sushila Devi. The Competent Authority has committed serious illegality in not considering the same. The Competent Authority must have passed order on the representation of the applicant for compassionate ground taking into account the rules in

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vogue and also findings recorded by the Civil Court rendered in suit No. 204 of 1999.

5. Having given my thoughtful consideration to the pleas advanced by parties counsel, I hereby quash and set aside order dated 09.12.2005 and the matter is remitted back to the Competent Authority to consider and pass a reasoned and speaking order taking into account the judgment rendered by the Civil Court in Civil Suit No. 204 of 1999, and also according to rule, within a period of 3 months from the receipt of copy this order.

6. With the above direction the OA is disposed of.

Dev


Member J