

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

ORIGINAL APPLICATION NO. 1363 OF 2006

Dated this *Eidday*, the 6th day of May, 2011.

CORAM:

HON'BLE MR. SANJEEV KAUSHIK, MEMBER- J

Keshav Singh, aged about 33 years
Adopted Son of Late Shri Panna Lal,
Resident of Village Pauri,
Post-Raipuraj At Dist. MathuraApplicant.

(By Advocate : Shri Rakesh Verma)

V E R S U S

1. Union of India through
General Manager, North
Central Railway, Nawab Yusuf Road,
Allahabad.
2. The Divisional Railway Manager (P)
North Central Railway, Jhansi
Division, Jhansi.
3. The Divisional Railway Manager (P)
North Central Railway, Agra Division,
Agra.Respondents

By Advocate : Shri P.N.Rai, Standing Counsel for the Union of
India.

O R D E R

The Applicant is aggrieved against the order dated 10.11.2006
passed by the Respondent No.2 vide which his claim for
Compassionate Appointment has been rejected by the Respondent
(Annexure A.I).

2. The skeleton facts of the case are that the applicant is the
adopted son of late Shri Panna Lal who was working as Helper
"Khalasi" under the control of Senior Sectional Engineer (Works), Agra

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Cantt., Agra on regular basis. He unfortunately died while on duty on 20.4.1992. The Applicant was duly adopted son of deceased and to this effect a registered adoption deed was duly executed on 26.6.1986 (Annexure A.3). A Will was also executed in favour of the applicant on 15.6.1987. One Ram Bharosey and others challenged the validity of the Will and the applicant was forced to file Probat before the Court of Additional District Judge, Mathura who had vide its order dated 6.8.2005 ordered Probat in favour of the applicant (Annexure A.4). On the basis of the Probat the respondents granted all benefits to the applicant on the demise of his father. The applicant also made a representation on 1.5.2006 to the respondent No.3 to consider his claim for compassionate appointment. When the above stated representation was not decided by the respondents then the applicant approached this Tribunal by way of O.A. No. 873/2006, which was decided on 25.8.2006 with a direction to respondent No.2 & 3 to consider the claim of the applicant and decide the pending representation dated 1.5.2006 within a period of two months from the date of receipt of a certified copy of the order. On 10.11.2006 claim of the applicant has been rejected by the respondents. Hence the Original Applicant.

3. Upon Notice the respondents contested the claim of the applicant by filing the detailed Counter Affidavit. The date of death of the applicant's father was admitted. It is alleged that the deceased employee during his service did not move an application for issuance of Privilege Pass (P.T.O) as per provisions contained under the Pass Rule for the applicant. Therefore, the name of the applicant was not considered for Compassionate Appointment. After considering the

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relevant Rules and instructions on the subject the claim of the applicant was rejected by the impugned order. It is also alleged that as per Railway Board's letter dated 11.12.1996 an adopted son or daughter can be considered for Compassionate Appointment provided such adoption has been accepted for issuance of privilege pass/P.T.O.s

4. I have heard Shri Rakesh Verma learned counsel for the applicant and Shri P.N. Rai, learned Counsel for the respondents.
5. Shri R.Verma, Learned Counsel for the applicant argued that the action of the respondents in rejecting the claim of the applicant is illegal, arbitrary and unconstitutional as on the one hand all the settlement dues on the demise of the father have been granted in favour of the applicant and on the other hand the case of the applicant for appointment under the Compassionate Scheme has been rejected in terms of the Railway Board letter date 11.12.1996 as during the life time his father did not ask for the issuance of Privilege Passes from the Department. He argued that the respondents cannot be allowed to blow hot and cold.
6. On the other hand, Shri P.N. Rai, Learned Counsel for the Railways, has vehemently argued that in terms of the Railway Board letter a condition has been stipulated that only those cases will be considered in which the father requested the department to issue privilege passes in the name of adopted son. He further argued that the father of the applicant died in the year 1993 and for the first time the applicant moved an application on 1.5.2006. Therefore, at the belated stage the claim of the applicant cannot be considered as the Compassionate Appointment is only to meet out the immediate need of

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the family whose bread earner has died. He relied upon the judgement passed by the Hon'ble Apex Court in the case of *Auditor General of India v. G. Ananta Rajeswara Rao, (1994) 1 SCC 192; Umesh Kumar Nagpal v. State of Haryana, JT 1994 (3) SC 525; Life Insurance Corporation of India v. Mrs. Asha Ramchandra Ambekar, JT 1994 (2) SC 183; Himachal Road Transport Corporation v. Dinesh Kumar, JT 1996 (5) SC 319; Hindustan Aeronautics Limited v. Smt. A. Radhika Thirumalal, JT 1996 (9) SC 197; and State of Haryana v. Rani Devi, JT 1996 (6) SC 646.*

Lastly he argued that the instant Original Application be dismissed.

7. I have considered the rival submission and have gone through the record. It is not disputed that the applicant is an adopted son of late Shri Panna Lal. To this effect, a decree has already been passed by the competent Court. Acting upon on the same very decree the respondents have already granted the benefits on the demise of late Shri Pannalal to the applicant. Therefore, the stand of the respondent that only those adopted son/daughters whose father during life time asked for the privileges passes from the Department will be considered, is against the Hindu Adoption Act because once the son/daughter has been adopted validly under rules then the artificial discrimination cannot be carved out. Merely that the father of the applicant during his life time did not request the respondent department to issue privilege passes does not fatal to the right of the applicant which is approved by the Court of Law for seeking compassionate appointment on the death of his father.

8. Since the claim of the applicant has been rejected on this ground only, therefore, without going into the merit of the case the impugned order is set aside that the matter is remanded back to the respondent authority to consider the claim of the in the light of the rules, without considering the

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guidelines dated 11.2.1996 which is unreasonable, irrational and arbitrary .
This exercise shall be completed within a period of two months from the date
of receipt of a copy of a certified copy of this order. The O.A. stands
disposed of. No order as to costs.

Sj*

(Sanj)
(Sanjeev Kaushik)
MEMBER (J)