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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CUTTACK.

Original Application No.273 of 1989.

Date of Decision:- 6th May, 1991.

Amulya Kumar Behera Applicant.

Versus,

Union of India & Others. . . Respondents.

For the applicant:- Mr.P.Palit, B.Mohanty, S.K.Mohanty
Mr.A.K.Kanungo, K.P.Mohapatra,
(Advocates).

For the Respondents: Mr.L.Mohapatra, Advocate.

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN.

&

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL).

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ? *No.*
3. Whether Their Lordships wish to see the fair copy of the Judgment ?

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JUDGMENT.

Mr. N. SENGUPTA, MEMBER (J).

The facts leading to this case

are as under;

One Darshan Behera was working as a peon in the Khurda Division of South Eastern Railway. While in service he died on 25.10.84.

Thereafter the present applicant who was an adopted son of the Late Darshan Behera made an application for payment of the money due to Darshan Behera and also for appointment on compassionate ground.

The applicant based his claim of adoption, besides other evidence, on a will. As the applicant basically relied on a will for his claim as adopted son of Darshan Behera, a probate of the will was insisted upon. The applicant applied to the District Judge, Cuttack under the Indian Succession Act for grant of Probate.

The District Delegate having the authority i.e.

Sub-Judge, Jajpur granted probate in favour of the applicant. After the probate was granted the Railway Administration paid the DCRG and other dues of the deceased Darshan Behera to

Ans Encl
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the applicant. The applicant's prayer is that he has not been appointed on compassionate ground even though his family is indigent.

2. The Railway Administration has raised the contention that the applicant is not entitled to an appointment on compassionate ground as there is no satisfactory proof of adoption, the adoption cannot be recognized under the personal law governing the deceased Railway Servant and further that other necessaries for a valid adoption had not been gone through.

3. We have heard Mr. Biswajeet Mohanty for the applicant and Mr. L. Mohapatra for the respondents. Mr. Mohapatra besides reiterating the contentions stated above, has further contended that as in the certificate for having passed the H.S.C. examination, the name of Gobind Chandra has been mentioned as the father of the applicant, he could not be taken to be the son of the deceased Darshan Behera. Annexure-2/a is a copy of the will exe-

*M.L. Mohapatra
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executed by Darsan Behera on 18.7.84 and Annexure-2/b is in essence an acknowledgment by Darshan Behera of having adopted the applicant. This document was executed on 18.7.84. A competent court of law before whom the will was produced for probate acting on it granted probate. That apart, when the respondents themselves also accepted the will for payment of DCRG etc. payable to deceased Darshan Behera the does not appear to be any plausible reason to say that Darshan did not adopt the applicant.

4. In the circumstances we would direct the respondents to consider the case of the applicant for appointment on compassionate ground as soon as possible. The case is accordingly disposed of. No costs.

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Vice-Chairman.

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Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack/ I. Hossain/
6.5.91.

