

(K.P. ACHARYA)  
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 536 OF 1993

Date of decision: January 25, 1994

B. Champati and another ... Applicant  
Vs. ...  
Union of India and others ... Respondents  
For the Applicant ... M/s. N. Patra and A.K. Patra,  
Advocates.  
For the Respondents ... Mr. B. Pal, Senior Standing  
Counsel (Railways).

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CORAM:-

THE HONOURABLE MR. K.P. ACHARYA, VICE-CHAIRMAN  
&  
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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ORDER

K.P. ACHARYA, V.C.

Petitioner No.1 is the adoptive father of  
Petitioner No.2. Petitioner Nos.1 and 2 have filed  
this application with a prayer to direct the Opp.  
Parties to give a compassionate appointment to  
petitioner No.2 on rehabilitation scheme.

2. Shortly stated the case of the petitioner  
is that, Petitioner No.2 was working as Peon under  
the Railway Administration for a particular period  
and Petitioner No.1 was found to be medically unfit  
to carry on the job entrusted to him. Hence he retired  
on medical ground with effect from 26th May, 1992  
as found from Annexure-5. Hence this application has  
been filed with the aforesaid prayer.

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3. In their counter, the Opposite Parties maintained that in the declaration contained in Annexure-R/1, the Petitioner No.1 had not disclosed that he had adopted a son prior to 22nd August, 1992- the date on which the statement showing the details of the members of the family for the purpose of family pension was filed. In addition to the above, it is further maintained by the Railway Administration in their counter affidavit that the Railway Administration is not bound by any deed of compromise executed between Petitioners Nos.1 and 2 as this deed is solely confined to the parties interse, and the Railway Administration is no way concerned with the deed of compromise. That apart it is further maintained by the Opposite Parties that the deed of adoption is a collusive one and should not be acted upon. It is further maintained that since a son has been born to the Petitioner No.1 the adopted son should not be given preferential treatment by giving him compassionate appointment. In a crux it is maintained by the Opp. Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.N.Patra learned counsel for the Petitioner and Mr.B.Pal learned Senior Standing Counsel(Railway) for the Opposite Parties. From Annexure-R/1, it is found that Petitioner No.1 had not mentioned anything about Petitioner No.2 having been adopted by

him. The declaration goes to the extent to say that the only dependants or the legal representatives of Petitioner No.1 was his wife, daughter and an infant son who was born through his marriage. In such a situation we cannot come to an irressistible conclusion that the petitioner No.1 had adopted Petitioner No.2. Conceding for the sake of argument that Petitioner No.2 had duly adopted petitioner No.2 but the litigation between Petitioner Nos.1 and 2 having ended in a compromise gives rise to a suspicion in our mind that thick and thin blood may not flow between the adoptive father and the adopted son and also between the Petitioner No.2 and his adoptive mother. At one point of time there has been some misunderstanding between petitioner No.1 and petitioner No.2 for which a declaratory suit was filed for a declaration that the petitioner No.2 was the adopted son of Petitioner No.1 and that ultimately ended in a compromise. In such a situation we feel reluctant to allow the prayer of the Petitioner No.2 anticipating that he may at any point of time desert Petitioner No.1 and his wife. In the meanwhile there has been a changed circumstance which has worsened the situation. It was told to us by the counsel for the Petitioner that Petitioner No.1 has in the meanwhile expired on 14th December, 1993. In such a situation we are very much apprehensive that the widow and her two minor children would be certainly neglected

by the petitioner no.2 and relating to this aspect one has lot of sad experience as is present in the modern society. We genuinely feel that petitioner no.2 may not be an exception to the practice which is now prevalent amongst the adopted sons to neglect the adoptive mother. Therefore, we are unable to accede to the request of the learned counsel for the petitioner that a compassionate appointment should be given to the petitioner no.2. On the contrary we would strongly recommend the case of the widow of the petitioner No.1 namely Smt. Sachala Champati who was aged 36 years in the year 1992 and must have been aged 38 years in the year 1994. Since the maximum age limit is 40 years we would strongly recommend the case to the General Manager, South Eastern Railway to take utmost sympathy over Smt. Sachala Champati and give her an appointment on compassionate ground commensurate with her educational qualification as soon as possible keeping in view that she would not only maintain herself but she has to maintain a very young daughter and an infant son. By this act of kindness and mercy <sup>of</sup> the General Manager the widow will not go with begging bowls and the General Manager will save her and her <sup>children</sup> minor from dying of starvation. The intention and object of the scheme for rehabilitation will be achieved.

5. In these circumstances, we would again say that we would be very happy if the General Manager, South Eastern Railway passes necessary orders in favour of the Widow preferably within 90 days from the date of receipt of a copy of the judgment. Counsel for the petitioner Mr. Patra submits that he would take necessary steps to inform Smt. Sachala

Champati to forthwith make an application to the General Manager, South Eastern Railway attaching a copy of this judgment and a copy of the application along with a copy of judgment may be filed by Mrs.Champati before the Senior Divisional Accounts Officer, Khurda Road who in his turn should send his recommendations to the General Manager, South Eastern Railway, Khurda Road immediately.

6. We would fail in our duty if we do not record the most fair concession made by Mr.Pal, learned Senior Standing Counsel (Railways). Mr.Pal very fairly conceded that the case of Smt.Champati is a fit one for sympathetic and kind consideration of the General Manager, S.E.Railways to issue an order of appointment in her favour on compassionate grounds.

7. A copy of this order be delivered to Mr.O.N.Ghosh, learned counsel (on behalf of Mr.Pal) and a copy of this order be also delivered to Mr.Patra, learned counsel appearing for the petitioner and as an abundant precaution a copy of the judgment be sent to Smt.Sachala Champati, widow of Banshidhar Champati by Regd.Post so as to enable her to take further steps as indicated above.

8. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

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MEMBER (ADMINISTRATIVE)

25 JAN 94

Central Administrative Tribunal  
Cuttack Bench/K.Mohanty,  
25.1.1994

25.1.94  
VICE-CHAIRMAN