

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 59 OF 1998.
Cuttack, this the 12th day of December, 2001.

SRI MANMOHAN GURU. APPLICANT.
: VRS. :
UNION OF INDIA & ORS. RESPONDENTS.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

S. Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
12.12.2001

N. Nityananda Prusty
(NITYANANDA PRUSTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 59 OF 1998.

Cuttack, this the 12th day of December, 2001.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. NITYANANDA PRUSTY, MEMBER (JUDL.).

.....

SRI MANMOHAN GURU,
At-Gurukha Colony,
QR. No. E/33,
Dist. Cuttack.

.....

Applicant.

By legal practitioner : M/s. P.K. Chand, D. Satapathy, Advocates.

- Versus -

1. Union of India represented through General Manager, South Eastern Railway, Garden Reach, Calcutta (W.B.).
2. The Divisional Railway Manager, South Eastern Railway, Khurda Road, Khurda.
3. The Senior Divisional Personnel Officer, South Eastern Railway, Khurda Road, Khurda.

..... Respondents.

By legal practitioner : M/s. D.N. Mishra, S.K. Panda,
Standing Counsel (Rlys.).

.....

O R D E R

MR. NITYANANDA PRUSTY, MEMBER (JUDICIAL) :

The applicant, who is the adopted son of a deceased Railway employee namely Nilakantha Guru has filed the present Original Application for quashing the order at Annexure-1 series and for a direction to the Respondents to consider his application for appointment in any Class-IV post on compassionate ground. This is for the second time, the applicant has come up in this Original Application before this Tribunal seeking

the present relief which was one of the reliefs sought for by him in his earlier Original Application No. 208/1995.

Applicant previously filed Original Application No. 208 of 1995 for a direction for payment of all the retiral benefits/death benefits of his late father and for a direction to consider his application for compassionate appointment. The above said O.A. No. 208/1995 was disposed of by this Tribunal on 16.1.1996 wherein the Learned counsel who appeared for the Respondents ^{submitted} that the rights of the applicant in respect of the dues payable on his adopted father's death, are admissible and they are ready to disburse the same as specified in the order passed by the subordinate Judge, First Class, Cuttack in Miscellaneous Case No. 8/85 dated 6.12.1986. So far as compassionate appointment is concerned, then this Tribunal has directed that the application shall be examined and a suitable decision shall be taken on merits on the basis that the application was duly made in February, 1985 and any decision so taken may be communicated to the applicant within 70 (seventy) days from the date of the said order. Vide order dt. 16.1.1996, this Tribunal further permitted the applicant to submit another appropriate representation within next ten days.

The applicant thereafter submitted another representation as per the direction of the Tribunal vide order dated 16.1.1996 which was considered by the Departmental Authorities treating the same as of the application made by the applicant in February, 1985 but the Respondents



rejected the said application of the applicant vide Annexure-1series dated 19.2.1997 and 10.6.1997 on the ground that * as per the Estt.Srl.No.141/83 and 32/82, the widow or the wards of the deceased employee are only eligible for employment assistance on compassionate grounds and for adopted wards there should be satisfactory proof of adoption valid legally and the legal adoption process should have been completed and have become valid before the date of death of the employee and should cover all Rules as laid down in the Hindu Adoptions and Maintenance Act,1956. As you have failed to produce any valid legal documents in support of your adoption at the time of enquiry to the enquiry officer,it is not feasible to consider your prayer for allowing employment assistance on compassionate grounds*.

2. A bare perusal of the pleadings made by the respective parties and the documents filed and relied upon by them clearly indicates that the present applicant is the adopted son of late Nilakantha Guru. Annexure-2 to this OA which was a pass issued by the Divisional Railway Manager, South Eastern Railway,Khurda Road clearly indicates that while Late Nilakantha Guru was alive,has obtained a Railway pass for himself alongwith his adopted son on 14.6.1983. Annexure-3 which is the copy of the succession certificate issued by a competent Civil Court i.e. Subordinate Judge, 1st Court,Cuttack in Miscellaneous Case No.8/85 also clearly establishes that the present applicant,Manamohan Guru is the adopted son of late Nilakantha Guru and accordingly succession certificate was issued by the

Competent Court in favour of the Applicant to collect the debts and to receive interest to negotiate or transfer and both to receive interest or dividend on and negotiate or transfer the securities or any of them, as stated in the said order dated 6.12.1986. Further more, copy of the order dated 16.1.1996 passed by this Tribunal in OA No. 208/95 under Annexure-4 to the present application clearly indicates that the Railway Authorities have also themselves accepted the fact that the applicant was the adopted son of late Nilakantha Guru and accordingly it was submitted by the learned Counsel for the Railways in the said case that the Departmental Respondents are ready and willing to disburse all the dues specified in the order passed by the subordinate Judge, First Court, Cuttack in the succession certificate and accordingly as per the direction of this Tribunal, the dues were paid to the Applicant.

In view of the aforesaid facts, at this stage, the action of the Department in rejecting the application of the applicant for compassionate appointment on the ground that the applicant has failed to produce any valid document in support of his adoption at the time of enquiry before the enquiry Officer is completely unjust, illegal and not sustainable in the eye of law. It goes without saying that once a competent Civil Court has declared the adoption of applicant as a valid one, no one is at liberty to doubt the same unless it is set aside or modified by a competent higher Court.

above, the

3. In view of the observations made in the orders

under Annexure-1 series dated 19.2.1997 and 10.6.1997 are not sustainable in the eye of law. Hence both the orders are set aside. The Respondents are directed to consider and dispose of the representation of applicant for allowing employment assistance on compassionate ground afresh in accordance with law keeping in view the order of the Learned Subordinate Judge, 1st Court, Cuttack passed in Miscellaneous Case No.8/95 and also the submissions made by learned counsel for the Respondents before this Tribunal in earlier O.A.No.208/95 without insisting for any deed of adoption, within a period of 2 months from the date of receipt of a copy of this order.

4. With the above observations and directions, the Original Application is allowed but however, there shall be no order as to costs.

Somnath Soms
(SOMNATH SOM)
VICE CHAIRMAN
18.12.2001

Nityananda Prusty
(NITYANANDA PRUSTY)
MEMBER (JUDICIAL)
12.12.2001

KNM/CM.