

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dated 9.12.05

Sri Suryanarayan Nayak, the applicant, alleged adopted son of the late Trinath Nayak has filed this O.A. claiming that he is entitled to the benefit of appointment under rehabilitation scheme on compassionate ground.

The undisputed fact of the case is that the late Trinath Nayak while working as Cabin Man at Sewabudih Station under Adra Division retired from service as a disabled person w.e.f. 4.12.89 and died thereafter on 1.8.97.

The case of the applicant is that the deceased Railway employee had no issue on his own and the applicant was adopted as his son. Although he has approached the Respondents seeking employment under compassionate category they have not favoured him with any offer of appointment.

The Respondents have opposed the application on several legal grounds that there was no whisper at any point of time before the retirement of Ex-Railway servant that he was having any adopted son. That the said deceased Railway servant executed adoption deed in favour of the applicant on 9.1.90 as it reveals from Annexure-A/4 of the O.A. They have also pointed out that the Suit bearing No.27/91 in the Court of Munsif, Paralakhemundi, Ganjam for a declaration that the applicant is an adopted son of the Ex-Railway employee did not make

the Respondent Department a party and therefore the decision in the said titled suit is not directed to them for the purpose of giving any employment. They have also opposed the application on the ground of limitation under Section 21 of the Administrative Tribunals Act as the cause of action had arisen in 1999 and on this ground alone the application deserves to be rejected. They have also strongly <sup>rebutted</sup> ~~reverted~~ the allegation of the applicant that he had filed a number of representations before the authorities claiming compassionate appointment. They have finally submitted that as the Ex-Railway employee during his life time did not ~~since~~ seeks any employment assistance in favour of anybody, the claim of the applicant is not entertainable under the scheme.

I have heard the Id.Counsel for both the parties and have perused the records as well as the rule concerning appointment of adopted sons/daughters on compassionate ground. In terms of the establishment serial No. 141/88, the policy of the Respondent Department is that appointment to an adopted son/ adopted daughter of a Railway servant may be considered provided the legal process have been completed and have become valid before the date of death/medical decategorisation/ medical incapacitation of the Ex-Railway employee.

The case of the Id.Standing Counsel for the Respondents is that the Ex-Railway

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employee i.e., Late Trinath Nayak had retired on medical invalidation on 4.12.89. At that time he did not claim to have legally adopted the applicant nor did he <sup>make</sup> ~~made~~ such declaration to the Department before his death i.e., before 1.8.97. In other words, neither during his service period nor between his retirement on medical ground on 4.12.89 till his date of expiry i.e., 1.8.97, the ex-Railway employee <sup>had</sup> ~~having~~ not taken any step for declaring the applicant as legally adopted son to the Respondent Department, <sup>and</sup> ~~the respondents are not, therefore,~~ the letter sent for appointment under ~~rehabilitation scheme on compassionate ground~~ is not obliged to consider the case of the applicant.

From the above position of law as enshrined in the scheme of rehabilitation scheme on compassionate ground, the application deserves to be rejected. However, liberty is granted to the applicant to make a fresh representation, if he so advised, to the Respondents to consider his case if the same is covered under the terms and conditions of the scheme providing for compassionate appointment under rehabilitation scheme.

  
Vice-chairman