

In the Central Administrative Tribunal
Calcutta Bench

OA 637/96

Present : Hon'ble Mr.N. Prusty, Member(J)
Hon'ble Mr.G.R. Patwardhan, Member(A)

Swapan Kumar Kundu S/o Late Adwita Charan Kundu, residing at
Village Koria, P.O. Karia

...Applicant

-Vs-

- 1) Union of India through the Secretary, Department of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi - 1
- 2) The Postmaster General, Howrah Region, Calcutta-12
- 3) The Supdt. of POs., Contai Dn., Contai
- 4) The Sub Divisional Inspector of POs., Belda 2nd Sub Dn., P.O. Belda

...Respondents

For the applicant : Ms. B. Banerjee, Counsel

For the respondents : Mr. B.K. Chatterjee, Counsel

Date of Order :

7/5/04

ORDER

Mr.G.R. Patwardhan, Member(A)

The issues for consideration in the OA filed by Swapan Kumar Kundu against the Union of India, through the Secretary, Department of Posts, Postmaster General, Howrah Region, Calcutta, Supdt. of Post Offices, Contai Division, Contai and Sub Divisional Inspector of Post Offices P.O. Belda, Midnapore challenging orders passed by APMG on 24-9-93 and the Postmaster General, Howrah Region on 30-5-1995 are very simple -

1. Whether the applicant is the adopted son of Late Adwita Charan Kundu, who died in harness as EDBPM.
2. If so whether his claim for appointment on compassionate ground has been properly considered.
2. We have heard the learned advocates for both the parties & have gone through the reply of respondents as well as voluminous documents provided by the applicant.
3. From these, it appears that one Adwita Charan Kundu was working as EDBPM at Karia Branch Office & died on 24-11-91 leaving behind two widows, the applicant & two minor sons.

S.R.O.

The applicant claims to be the adopted son & so applied for compassionate appointment through his mother(s) along with documents on 5-1-92. Simultaneously, Supdt. of POs., Contai Dn. was also informed on 20-1-92.

4. The applicant clearly mentioned that he was an adopted son and being born on 19th January, 1974 and going to appear in Madhyamik Examination and so relevant rules be relaxed for recruitment of EDBPM (which perhaps requires minimum qualification of Secondary School Leaving Certificate) so that he could get appointed in place of his father. The documents that were enclosed clearly established that he was claiming appointment on the ground of being adopted son. He had enclosed copies of certificate of residence. He also maintained that a deed of adoption was also got registered subsequently on 26-12-91. However, the respondents issued the impugned order dated 29-9-93 by which they intimated that the Circle Selection Committee rejected the applicant on the ground he was adopted after the death of deceased. An appeal was subsequently made to the Postmaster General on 5-11-93 along with copies of essential documents, like proof of birth, Ration Card, Gram Panchayat Certificate and BDO's Certificate, but that also came to be rejected by letter of Supdt. of POs., Contai Dn. dated 30-5-95, who informed that the PMG has been pleased to consider and rejected the petition for appointment in relaxation of normal rules of recruitment.

5. We have perused the following documents in original submitted by the applicant :

- 1) Ration Card No.959401 issued on 12-6-83 by Supply Department, Midnapore.
- 2) Certificate of West Bengal Board of Secondary Education indicating registration of the applicant.
- 3) Admit Card of West Bengal Board of Secondary Education for 1992 Madhyamik Exam.
- 4) Head Master's Certificate of Karia Primary School.
- 5) Certificate of BDO, Danton.

6) Decree of Civil Judge Dantan dated 20-1-98.

All these documents show the parentage of the applicant as that of Adwaita Charan Kundu.

6. On the other hand the respondents claimed that the signature on the adoption deed appeared to be of doubtful authenticity and they are supported in this view by the opinion of Hand Writing Expert who was asked to examine the signature. They have also taken the view that no Hindu Law, especially Hindu Adoption and Maintenance Act permits such kind of adoption. It is also suggested that the late employee could not have two wives at a time and if both the ladies happened to be the wife of the deceased employee they cannot claim for compassionate appointment for their adopted son.

7. We find that the issue of adoption ~~as~~ also finds mention in the Decree of Civil Court and that being the case it would not be appropriate for this Tribunal to comment on it. There are many other documents which independent of the issue of validity of adoption indicate that in all probability the deceased employee adopted the applicant as a son and treated him as such.

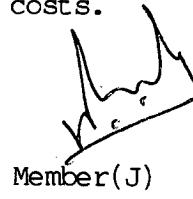
8. The doubts expressed about the legality of the marriage of the deceased to two women are not supported by any other evidence and we do not propose to comment on the same.

9. We are of the view that the stand taken by the respondents in the face of different documents placed by the applicant is not legally tenable. The applicant is a Hindu and his parents are Hindus, the provisions of the Hindu Adoption and Maintenance Act 1956 do not make it necessary that every adoption should be supported by a registered deed. Neither is it a condition precedent for a valid adoption. We therefore would not like to say anything beyond this in so far as the issue of adoption is concerned.

10. In the given situation it follows that the consideration of the case of the applicant has not been as per

the policy laid down and extraneous factors seem to have influenced the judgement of respondents. In the result, the OA is allowed and the impugned order dated 30-5-95 (Annexure A5) is quashed. Respondents are directed to consider the case afresh on merits and pass a reasoned and speaking order within a month of the receipt of this order and the same should be communicated to the applicant within another month. No order as to costs.

DR
Member(A)



Member (J)