

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.1533 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

BINAPANI MANNA & ANR.

VS.

UNION OF INDIA & OTHERS

For the applicants : Mr. M.S. Banerjee, counsel  
Mr. A. Chakraborty, counsel

For the respondents : Mr. P. Chatterjee, counsel

Heard on : 23.6.2000

Order on : 23.6.2000

O R D E R

This is an application for compassionate appointment in favour of one, Sital Chandra Manna, the applicant No.2 in this O.A. who is stated to be the adopted son of late Bhut Nath Manna, Ex-Gangman under P.W.I., Panskura, S.E. Railway. According to the case of the applicants, Sri Bhut Nath Manna died on 2.6.1993 while working under the respondents, thereafter the widow of the deceased Smt. Binapahi Manna, applicant No.1 in this O.A. made representation to the authorities for compassionate appointment in favour of her son(adopted), Sital Chandra Manna, but the respondents did not consider the matter properly and the prayer was rejected by a letter dated 18.7.1996(Annexure 'C' of the O.A.) issued by the Divisional Railway Manager(P), S.E. Railway, Kharagpur stating that as per Estt. Srl.No.32/96 there is no provision of compassionate appointment to a near relative as bread earner. Feeling aggrieved by the said order, the applicants have come to this Tribunal seeking appropriate relief.

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2. Respondents have filed written reply denying the claim of the applicants stating inter alia that the application is devoid of any merits and is liable to be dismissed on the grounds stated in the reply and in the aforesaid letter dated 18.7.1996 (Annexure 'C' of the O.A.

3. I have heard the ld. counsel for both sides and have perused the records available with me. It is stated by the ld. counsel for the applicants, Mr. M.S. Banerjee that the applicant No.2 is the adopted son of the applicant No.1 and the deceased employee and the applicant No.2 has got a declaration to that effect from the competent court. He has produced a copy of the Title Suit No.24 of 1999 decided by the 3rd Court of the C.J.(Jr. Dvn.), Tamluk on 7th May, 1999 from which it appears that the applicant No.2 is the legally adopted son of the deceased employee and the applicant No.1 in this O.A. Copy of the said judgment be kept with the records. Referring to the said declaration by the competent court, ld. counsel, Mr. Banerjee submits that the respondents cannot reject appointment in favour of applicant No.2 on the ground that he is the near relative of the deceased employee whereas he has got declaration from the competent court to the effect that he is the adopted son of the deceased employee and the applicant No.1 in this O.A. Ld. counsel, Mr. P. Chatterjee appearing on behalf of the respondents, submits that there are some infirmities in the said order <sup>passed in Title Suit No.24 of 1999 mentioned above.</sup> and the respondents have a right to challenge the same on the ground that they (railway authorities) were not made a party. It is further contended by Mr. Chatterjee that the said order was obtained by the applicant No.2 during pendency of this O.A. in this Tribunal, therefore, on the basis of that declaration, the applicant No.2 is not entitled to be appointed on compassionate ground. Mr. Chatterjee also submits that if the aforesaid declaration under Title Suit No.24 of 1999

is set aside by the appellate court, the applicant's claim will be infructuous as per rules; so liberty may be given to the respondents to challenge the declaration given under Title Suit No.24 of 1999. Ld. counsel, Mr. M.S. Banerjee appearing on behalf of the applicants, submits that a direction should be given upon the respondent authorities to consider the case of the applicant No.2 for the purpose of compassionate appointment on the basis of the aforesaid declaration under Title Suit No.24 of 1999 since that has not yet been set aside by the competent authority.

4. In view of the divergent arguments advanced by the ld. counsel for both sides and on a perusal of the order dated 7th May, 1999 passed in Title Suit No.24 of 1999 produced before me at the time of hearing, it is clear that the applicant No.2, Sri. Sital Chandra Manna was declared by the competent authority <sup>legally</sup> as the <sup>legally</sup> adopted son of the deceased Government servant, Bhut Nath Manna. Admittedly the railway respondents were not made a party in that case, but unless the said order <sup>is</sup> set aside or modified by the appellate authority/competent authority, I have to accept the observations made in that judgment and decide this case as per rules. Since, the applicant No.2 was declared by the competent authority as the legally adopted son of the deceased, I find no impediment to direct the respondents to consider the case of applicant No.2 for the purpose of granting compassionate appointment as per the extant rules.

5. Accordingly, the respondents are directed to consider the case of applicant No.2 for the purpose of compassionate appointment treating him as the legally adopted son of the deceased, Bhut Nath Manna and the applicant No.1, Binapani Manna in accordance with the scheme framed by the Government in this matter, if he is otherwise suitable as per rules, within a period of 3 months from the date of communication of this order. The impugned order dated 18.7.1996 (Annexure 'C' of the O.A.) is hereby set