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CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR.

O.A.No.287/1995

Date of Order: 6.2.1996

Laxmi Narain

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Applicant

VERSUS

Union of India & anr.

...

Respondents.

Mr. B.N. Calla

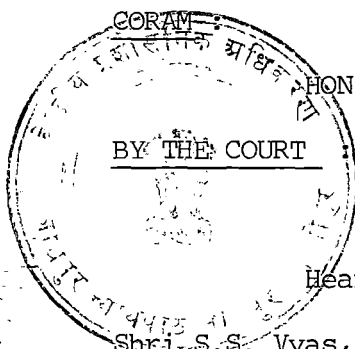
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Counsel for the
Applicant

Mr. S.S. Vyas

...

Counsel for the
Respondents.



HON'BLE SHRI N. K. VERMA, ADMINISTRATIVE MEMBER.

BY THE COURT

Heard Shri B.N. Calla, Counsel for the applicant and
Shri S.S. Vyas, learned Counsel for the respondents. The O.A.
has been filed in by the applicant who has claimed to be an
adopted son of the deceased railway employee Radhey Shyam Sharma,
who died on 14.5.92 without any natural sons or daughter. Before
death the deceased employee had taken the applicant as his adopted
son through a registered deed dated 5.3.92. An application for
appointment on compassionate ground was made to the respondents
which was rejected vide Annexure A/1 dated 2.1.95 stating therein
that the applicant's case was rejected by the headquarters as he
had not fulfilled the guidelines for appointment in relaxation of
rules on compassionate grounds as circulated by the Railway Board
under the policy dated 20.5.1988. In reply to a notice in this
O.A. the railways have now stated that the object of providing
appointment on compassionate ground is not to provide appointment
but to help the family of a railway deceased employee in harness
as the bread-winner has ~~been~~ expired. In this case the applicant
has no right to be appointed on compassionate grounds. The

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respondents have also objected the legal validity of the adoption of the applicant saying that the adoption deed is not valid as it does not disclose the date on which applicant was alleged to have been adopted. Apart from this the deed also did not disclose that the consent of the wife of late Radhey Shyam, the deceased railway employee was obtained, therefore, the adoption deed itself is invalid ex-facie and cannot be accepted. The respondents have therefore not accepted the adoption as proper and therefore not agreed to give the applicant any appointment on compassionate grounds.

2. The respondents have also cited the recent judgment of the Hon'ble Supreme Court in the Umesh Kumar Nagpal versus v. State of Haryana & ors. 1994 (27) ATC 537 wherein it was held that object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment, mere death of an employee does not entitle his family to compassionate appointment.

3. During the course of hearing for admission, Shri B.N. Calla very strenuously tried to impress that the adoption is valid and took place during the life time of the deceased employee and the applicant at that time was of 28 years of age. This has proved by the character certificate at Annexure A/6 which has been provided by the school authorities showing his date of birth as 1.10.1964. At the time of adoption i.e. on 5.3.93 the applicant was already of the age of 28 years. The scheme of compassionate appointment is for dependent children/relatives of the deceased employee who dies in harness. A person who is already adult becomes non-elegible for being considered for compassionate appointment. In this connection, stipulation in the letter dated 7.4.83 at Annex. A/5 makes the

position very clear when it says that only those children are eligible for the appointment on compassionate grounds who are not adults. Of course in the case of the wife or widow or widower, the age is not a problem. Apart from this fact the learned counsel for the respondents also brought to my notice that no adoption could be made validly of any person who is more than 15 years of age as per the Hindu Adoptions & Maintenance Act, 1956, Section 10(iv). Since indisputably the applicant was 28 years of age at the time of adoption and was already adult, he could not be covered under the scheme for compassionate appointments in the relaxation of normal rules of recruitment. The applicant has filed the Annexure A/5 which is an order of the Railway Board issued in June, 1993 giving reference to the Railway Board's order dated 30.4.1974. No other Administrative Instruction was provided by the applicant to support his case that even an adult relative could be considered for compassionate appointment.

4. I have given this matter serious consideration. The compassionate appointments have all along been given on the primary requirement of helping the indigent conditions of a family of a deceased employee by providing employment to his immediate dependent like widow or a son or any other relative to tide over the financial crisis. The Hon'ble Supreme Court in the latest judgment in the case of Jagdish Prasad v. State of Bihar 1996 (1) SLR (SC) 7 had denied appointment to a person who was 4 years old at the time of the death of the deceased employee. He claimed appointment after attaining majority. The Supreme Court negatived the claim by saying that the object of giving appointment to the dependent is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family. The applicant could not be said to be dependent of the deceased Radhey Shyam, as he was above 21 years at the

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time of death of his adoptive father even if we concede for a moment that the adoption was validly gone into. In any case, the respondents have no duty to provide a job in relaxation of the normal recruitment rules in the above circumstances. The case is dismissed as having no merits at the stage of admission.

N. K. Verma

(N. K. VERMA)
Administrative Member

[CPM]

Part II and III destroyed
in my presence on 2/5/51
under the supervision of
section officer (1) as per
order dated 12/3/50

Section officer (Record)

Rec'd copy
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13/2/96

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13/2/96