

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

Date of Decision: 06.12.2001

OA 6/2001

Kumari Prabha Joshi d/o Late Shri Gopal Lal Joshi r/o c/o Shri Shyam Lal Joshi, near Police Station Jatia Bas, Nawa City, District Nagaur.

... Applicant

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Rly Manager, Northern Railway, Jodhpur.
3. Divisional Personnel Officer, Northern Railway, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.S.K.Malik

For the Respondents

... Mr.Salil Trivedi

O R D E R

PER HON'BLE MR.JUSTICE O.P.GARG, VICE CHAIRMAN

Applicant, Kumari Prabha Joshi, who claims herself to be the adopted daughter of the deceased employee, Shri Gopal Lal Joshi, who died in harness as Gateman at Nawa Railway Station in District Nagaur, had applied for appointment on compassionate grounds. Her application for appointment on compassionate grounds has been rejected primarily on the ground that she is not entitled to the benefit of the said appointment as she is said to be the adopted daughter of the deceased employee and moreover her adoption is invalid. The applicant, therefore, is before us by moving this



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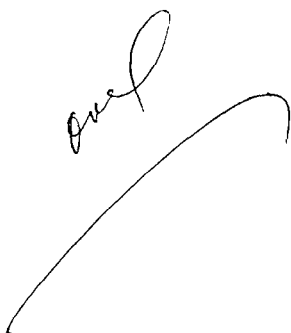
Original Application under Section 19 of the Administrative Tribunals Act, 1985.

2. Heard the learned counsel for the parties and perused the documents brought before us.

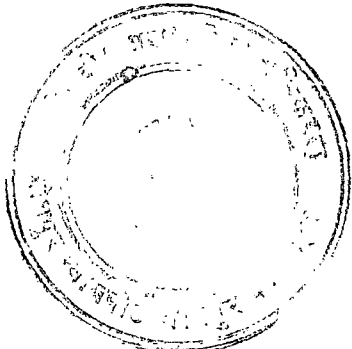
3. This OA can be decided even at the stage of admission as pleadings of the parties are complete. Therefore, we proceed to decide this OA on merits, for which the parties' counsel have consented.

4. The deceased, Shri Gopal Lal Joshi, died in the year 1994. The applicant was adopted about four months prior to his death. A Succession Certificate was issued by the competent court in favour of the applicant, in pursuance of which all the retiral benefits have been released by the respondent department in favour of the applicant. This position is not disputed. The learned counsel for the respondents pointed out that the Succession Certificate will not enure for the benefit of appointment on compassionate grounds as its operation was confined only for the release of monetary benefits. He challenges the adoption of the applicant. This stand taken by the respondent department is not legally correct. The Succession Certificate operates as judgement 'in rem'. The department cannot say that for one purpose the Succession Certificate is valid and for the other it is not. This fact cannot be disputed that the Civil Court has determined that the applicant is the adopted daughter of the deceased employee on the basis of the adoption deed.

5. In view of the above fact, the application of the applicant for



appointment on compassionate grounds could not have been rejected merely on the ground that the applicant was not validly adopted or an 'adopted daughter', is not entitled to such a benefit. Instructions issued by the Government with regard to appointment on compassionate grounds embrace within its ambit the 'adopted daughter' also as being one of the dependants of the deceased employee. The claim of the applicant for appointment on compassionate grounds cannot be thrown out on the ground that she is the adopted daughter. This being the legal position, the competent authority has to give a fresh look to the matter and decide the case on merits after taking into consideration the financial position prevailing at the time of death of the deceased employee and other requirements provided under the rules. An inquiry into the matter has to be made by the departmental authorities.



6. We, therefore, finally dispose of this OA, without any order as to costs, with a direction that the application of the applicant for appointment on compassionate grounds shall be considered by the competent authority in the light of the rules governing the subject and after taking into consideration the financial position and other circumstances. This exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

Gopal Singh
 (GOPAL SINGH)
 MEMBER (A)

O.P. Garg
 (JUSTICE O.P.GARG)
 VICE CHAIRMAN

Dr. Wickes

Stamp
10-12-07

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