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In the Central Administrative Tribunal
Jodhpur Bench, Jodhpur

Original Application No. 01/2004

This the 11th day of March, 2005.

CORAM :

**Hon'ble G.R. Patwardhan,
Administrative Member**

.....
Jala Ram S/o Late Sh. Roopa Ramji aged about 20 years, resident of Vill.
Jalsu Khurd, Post Jalsu Kalan, Via Degana, Distt. Nagaur (Raj).

.....Applicant.

(By Mr. ~~DAYA RAM~~, for the applicant)

Versus

1. Union of India through the General Manager
Northern Western Railway, Jaipur.

2. Divisional Railway Manager, North Western Railway,
Jodhpur Division, Jodhpur. (Raj)


3. Divisional Personnel Officer, North Western Railway,
Jodhpur Division, Jodhpur (Raj)

.....Respondents.

(by Mr. ~~Sahil Trivedi~~, for respondents)

ORDER

(By the Court)



This O.A. has been filed by Jala Ram, against three respondents led by – the General Manager, North Western Railway, Jaipur. Order dated 29.1.2003 (Annex A/1) and order dated 4.6.2002 (Annex. A/2) passed by respondent No. 3, the Divisional Personnel Officer, North Western Railway, Jodhpur, is under challenge. O.A. has been filed on 2.1.2004 and its reply by respondents on 16.8.2004. Learned counsel for both the parties have been heard and with their consent, the case is being disposed of at the stage of admission itself.

2. Briefly stated the facts are that the father of the applicant late Roopa Ram died on 13.4.1998 while working as a Mate at P.W.I., Deedwana under the respondents and so the applicant being the adopted son, applied for compassionate appointment through his mother vide Annex. A/7 But, as the applicant was then a minor, he was informed vide Annex. A/8 in June 1998

that as and when the applicant attains majority, he can apply for compassionate appointment and that the matter would be considered as per the rules. On attaining majority the applicant applied for compassionate appointment vide Annex. A/9, (undated). Vide communication at Annex. A/2, the applicant was informed that the deed of adoption submitted by him has the following infirmities and so it is not a matter of appointment on compassionate ground:-

(A) There is a difference between the original deed of adoption available in their office and a photo copy submitted subsequently.



(B) The deed of adoption must have signature of the natural parents as well as adopting parents whereas, in the deed, only the signature of the adopting father is available and the natural father has been indicated as a witness but his thumb impression carries the name of Jala Ram. As this does not disclose agreement between the two parties, the deed does not fulfil the requirements of Hindu Adoption and Maintenance Act, 1956.

3. During the course of arguments, the learned counsel for the applicant submitted that the deed and the photo copy was genuine and after receiving the impugned communications at Annex. A/2, affidavit of one Shri Chela Ram and Smt. Patasi, the natural parents of the applicant, were filed clarifying the position of their signature in the registered deed of adoption and that despite this, the communication at Annex. A/1 was issued by the respondents maintaining their stand that the defects in the deed of adoption do not get rectified and so no further action is possible.

He also highlighted the fact that the applicant belongs to Scheduled Caste and his parents are very poor, and except the meager family pension, there is no other source of livelihood. It is also submitted that taking into consideration this collateral piece of document, the respondents should be directed to accept the applicant as adopted son of the deceased.

4. Learned counsel for the respondents, while standing by his reply

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has insisted that a plain reading of section 16 of the Hindu Adoptions and Maintenance Act, 1956 leaves hardly any scope for them to accept the position of the applicant as the adopted son. He maintained that a favourable presumption regarding registered document purporting to adoption can be made provided it is signed by the person giving and the person taking the child in adoption. The relevant section is as follows :-



“16. Presumption as to registered documents relating to adoptions - Whenever any document registered under any law for the time being in force is produced before any Court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.

5. It is, therefore, apparent that when the deed does not have the signature of the person giving away the child in adoption the provisions of this section are not fully complied with and consequently presumption under Section 16 relating to adoption cannot be drawn. To that extent, the objection raised by the respondents appears well placed.

In the result, the O.A. lacks merit and is dismissed. However, it is made clear that if the applicant in his own right is held eligible for an appointment under the respondents, this order shall not stand in his way. No order as to costs.

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(G.R. Patwardhan)
Administrative Member

jrm

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S. C. C.

21/3/13
SR Male
Helm

Rec
[Signature]
SR Male

Part II and III destroyed
in my presence on 8-1-14
under the supervision of
section officer () as per
order dated 8/12/13

[Signature]
Section officer (Record)
8/1/14