

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.452/2011

Date of decision: 07/08/2012

Orders reserved on 01.08.2012

CORAM:

**HON'BLE Mr. G. SHANTHAPPA, JUDICIAL MEMBER,
HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER.**

Nirmal Singh S/o Late Shri Jagga Singh, aged about 26 years, R/o 2-K.M.J. (Makkasar), 1+1, Basti Suratgarh, Near Railway Line, Hanumangarh, Tehsil & District Hanumangar. (as working Khalashi under the respondent No.3).

: Applicant

Mr. Nishant Motsara, counsel for applicant.

Versus

1. The Union of India through the General Manager, Northern Western Railway, Jaipur.
2. The Divisional Railway Manager, Northern Western Railway, Bikaner.
3. The Divisional Personnel Officer, Northern Western Railway, Bikaner.

.....Respondents

Mr. Girish Shankhala, counsel for respondents.

ORDER

Per G. Shanthappa, Judicial Member

The above application is filed under Section 19 of Administrative Tribunals Act, 1985 challenging the legality and propriety of the order No.E-33/701/2011 dated 21.06.2012 (Annexure-A/1), and further relief of direction to the respondents



to give appointment to the applicant on the post of Khalasi, on compassionate grounds.

2. We have heard the learned counsels for the respective parties. It is admitted from the either side that one Shri Jagga Singh died while in service on 05.08.2010 leaving behind his wife. While in service, Shri Jagga Singh declared that he had no issues. According to declaration of Jagga Singh, he declared his family members are himself and his wife (Annexure-R/2, R/3 & R/4). It is also an admitted fact that according to educational certificates issued by the Board of Higher Secondary Education, Delhi, the name of Jagga Singh has been mentioned as father of the candidate i.e. applicant (Annexure-A/4). The respondents issued identity card to Jagga Singh, in which the name of the applicant is also included as one of the family members (Annexure-A/5). While the Jagga Singh and his wife, they have no issues, hey had adopted the applicant under Registered Adoption Deed dated 04.07.1995. Shri Jagga Singh while in service he did not report the status of adoption of the applicant as son.

3. It is the grievance of the applicant that he is adopted son of the deceased employee, in his educational record his father name is mentioned, he has applied for appointment on compassionate grounds, the respondents have confirmed that the applicant is son of Late Shri Jagga Singh as per the identity card (Annexure-A/5), but the application submitted by the applicant for appointment on compassionate grounds has been rejected, which he challenged in



the OA. The respondents have not accepted the adoption deed, which is highly illegal. As per the Railway Boards' Master Circular No.16 (Annexure-A/7), adopted son is also eligible for appointment on compassionate grounds. The order of rejection is illegal, against law, and violative of Principles of Natural Justice.

4. The respondents vehemently opposed the OA and supported the order of rejection. It is their contention that the wife of Jagga Singh, Smt. Nasib Kaur while submitting the settlement papers after the death of her husband, stated in certificate of identity card that she had no children (Annexure-R/1). Deceased employee, Jagga Singh, had also submitted declaration certificates of identity in the years 2007, 2008, and 2010, in which stated that he had no child or other family member or dependent except his wife. The said adoption deed was registered in the year 1995 but the same was not produced before the respondent authority during his life tenure. The said adoption deed has not been properly executed in accordance with the provisions of Hindu Adoptions and Maintenance Act, 1956. Hence, the claim of the applicant does not survive in the eye of law. The respondents examined the adoption deed, it was found that the said adoption deed was not legally valid, non attestation of photographs by the Sub Registrar and not mentioning the date of birth of adopted child, not only this, when the adoption process took place in the year 1995 but these documents were not submitted in the service record of the deceased employee during his life tenure. The said document is



doubtful and the applicant cannot claim his grievance under the said document.

5. The applicant has filed rejoinder to the reply statement, there is no much clarification except repetition as mentioned in the OA. The clarification to the reply statement to the extent that the adoption certificate of the applicant, contention of the respondents that is not registered document, but on the face of it is dully proved that the adoption deed is registered in way back 1995, on the basis of the document, the respondents had issued the identity card. The applicant has produced the ration card in which the applicant name is mentioned as family member of deceased employed, Jagga Singh.

6. We have carefully considered the submission made by the learned counsel for the respective parties and perused the documents available on record and the pleadings.

7. It is admitted facts from the either side that Jagga Singh, and his wife Nasib Kaur did not informed the respondents about the registered adoption deed, in which the applicant was adopted as son of the family of late Shri Jagga Singh. It is also admitted fact that the respondents have entered the name of the applicant as son of the family members in the identity card of deceased employee. The respondents are disputing that the registered adoption deed, which was registered on 04.07.1995 on the ground that the said adoption deed is not in accordance with the procedure under Hindu Adoption and Maintenance Act, 1956. The adoption



deed does not give the particulars i.e. non-attestation of photographs by the Sub Registrar and not mentioning the date of birth of adopted child, hence the adoption deed was not legally valid. When the adoption deed was registered under the particular Act, the respondents cannot raise that the adoption deed is not valid. The applicant has submitted his application for appointment on compassionate grounds, his claim was rejected because of the adoption deed was not legally valid. If that being the fact the respondents may approach the competent Court to declare that the adoption deed is illegal, not valid and not in accordance with Hindu Adoption and Maintenance Act, 1956. The respondents have not approached any of the authorities or the competent Civil Court. The respondents cannot say that the adoption deed is illegal, not valid and not in accordance with Rules. It is not the case of the respondents that the adopted son is entitled for appointment on compassionate grounds, there is objection, the applicant is not the adopted son of late Shri Jagga Singh. After careful consideration of the rival contentions, we are of the view that the objection raised by the respondents is not tenable in the eye of law. Hence, we reject the stand taken in the reply statement.

8. We have carefully examined the impugned order dated 21.06.2011 (Annexure-A/1), the rejection of the claim of the applicant was only on the ground that the applicant was not the adopted son, the said objection we have already decided, accordingly the impugned order is illegal, the same is liable to be quashed.



9. For the foregoing reasons, we are of the concerned view that the applicant has established his case for quashing the impugned order. The respondents are not justified in opposing the OA that the adoption deed is not legally valid. Accordingly we quash the impugned order. We direct the respondents to accept the registered adoption deed, registered on 04.07.1995, and consider the application submitted by the applicant for appointment on compassionate grounds subject to fulfilment of other criteria under the Master Circular No.16.

10. OA is disposed of to the extent as indicated above. No order as to costs.


[B.K. Sinha]
Administrative Member


[G. Shanthappa]
Judicial Member

13/8/12
Kishita.
Seciendly

Recd
13.8.2012
Givish Senthil
Bd.