

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 527/2013

Jodhpur, this the 29th day of January, 2016

CORAM

Hon'ble Mr. K.B.Suresh, Judicial Member

Hon'ble Ms. Praveen Mahajan, Administrative Member

1. Abid Ali s/o Late Shri Arif Ali, aged about 26 years,
2. Sahnaj D/o Late Shri Arif Ali, Aged about 23 years, Both the Petitioners are B/c Muslim R/o Nagori Niwasi, Near Loharo Ki Masjid, Bikaner, District Bikaner.

.....Applicant

By Advocate: Shri R.K.Mishra

Versus

1. The Union of India through the General Manager, North Western Railway, Jaipur, Rajasthan.
2. Assistant Personnel Officer, Northern Western Railway, Workshop, Bikaner, Rajasthan.

.....Respondents

By Advocate : Shri Vinay Chhipa

ORDER

This Original Application has been filed by the applicant u/s 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- A. By an appropriate order or direction, the respondents may kindly be directed to consider the applicant's

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adoption deed which legal and according to custom and release all monetary benefits to the applicants.

- B. By an appropriate order or direction, the respondents may kindly be directed to consider the adopted son (the applicant No.1) for an appointment on compassionate ground w.e.f. 06.07.2012 i.e. after date of death of applicant's father with all consequential relief including salary (pensionary benefits) immediately.
- C. Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
- D. Application of the applicant may kindly be allowed with costs.

2. The applicant's father adopted two children of his brother but he was not extended the benefit of the said adoption. The legal assistant in Railway Department has opined on 27.08.2012 that there is no provision in Muslim Law for taking child on adoption, therefore, the adoption deed submitted by the applicant's father was held to be not acceptable. The adoption deed submitted by the applicant's father remained unattended till his death. Thereafter, the applicant requested to release the pensionary benefits to them, but their efforts could not materialize. Even after submitting a representation, vide order Ann.A/5 the respondents communicated to the applicant that adoption deed could not be taken into account. Therefore, aggrieved of the action of the respondents, the applicant has filed this OA for the

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3. In reply the main stand of the respondents is that in the Muslim Personal Law (Mohammedan Law), there are no provisions for adoption and in the said law adoption is not permissible and valid. With regard to monetary benefits, it is submitted that after death of Shri Arif Ali, the payments of gratuity, insurance and provident fund etc. have already been released in favour of mother of late Shri Arif Ali namely Sugara under provisions of Islamic Law. This fact is clear from the letter dated 15.9.2014. Hence, Admittedly, the monetary benefits have already been released to the mother of the deceased. Therefore, the respondents have denied the claim of the applicant.

4. The applicant has filed additional affidavit and the respondents have filed reply to the same.


5. We have heard the learned counsel appearing for the parties and perused the record. It is an undisputed fact that there is no provision in the Muslim Law for adoption. From the facts of the case, it is also clear that the monetary benefits have already been released to the mother of the deceased as is evident vide letter dated 15.09.2014 (Ann.R/1). Another interesting factor relevant here is that the applicant has moved an application for issuance of Succession Certificate before the Judicial Court at Bikaner u/s 372 of the Indian Succession Act, which is still sub-

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Shamnam Hashmi vs. Union of India and others, reported in AIR 2014 SC 1281 that under the Muslim Law, there is no provision of adoption.

6. In view of above discussions, we find no reason to interfere with the decision of the Railways. The OA is accordingly dismissed with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member


(Dr. K.B.SURESH)
Judicial Member