

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No.438 of 1996

Date of order 8-7-1997.

Sunil Kumar Pandey, son of Late Sri Ram @ Sri Ram  
Pandey, resident of Village Dilmanpur, P.S. Sahpur,  
P.O. Iswarpura, District Bhojpur.

.. Applicant

-versus-

1. The Union of India, through the General Manager,  
North-Eastern Railway, Gorakhpur.
2. The Chief Personnel Officer, North Eastern  
Railway, Gorakhpur.
3. The Divisional Manager of Railway (Personnel),  
Samastipur,
4. The C.P.W.I., Mehsi, Motihari, District East  
Champaran.

.. Respondents

CORAM : Hon'ble Mr. Justice V.N. Mehrotra, V.C.

Counsel for the applicant : Mr. Pandit Jee Pandey  
Miss Rita Kumari

Counsel for the respondents : Mr. P.K. Verma.

Dr. Ranteshwar Tiwari.

O R D E R

Hon'ble Mr. Justice V.N. Mehrotra, V.C.:-

This O.A. has been filed under Section 19  
of the Administrative Tribunals Act, 1985, praying that  
the respondents be directed to appoint the applicant

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on compassionate grounds on a suitable post on an adjudication and declaration that he is the son of the deceased employee, namely, Late Sri Ram @ Sri Ram Pandey who died in harness. The applicant has also prayed for a appropriate direction commanding the respondents to make payment of the dues to the applicant which are payable after the death of the deceased employee.

2. Deceased Sri Ram was a Class IV employee working as a Railway Chowkidar under the respondents. He died in harness on 3.7.1995. The applicant claims that on 8.6.1987 the deceased had adopted him as his son. It is claimed that a Panchnama was prepared on the date of adoption and in School record also name of Sri Ram was entered as the father of the applicant. It is further asserted that a Railway Pass was also issued to the applicant as the son of Sri Ram. It is claimed that the last rites of Sri Ram were also performed by the applicant as adopted son. It is said that Sri Ram was unmarried till the time of his death. The applicant moved an application on 9.8.1995 praying that he be appointed on a suitable post on compassionate grounds. The respondents no.3 sent a letter dated 27.9.1995 requiring him to produce legal <sup>proof</sup> of being adopted. He submitted necessary papers before the respondent no.3. Later on another letter asking the applicant to produce registered deed of adoption was received by him. It is claimed that the applicant was adopted in accordance with the Hindu customs though no registered adoption deed was executed. It is claimed that the applicant was entitled to be appointed on compassionate grounds and that he is also entitled to get the dues which were payable to the

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deceased employee as he was the adopted son of the deceased.

3. During the arguments, the learned counsel for the applicant stated that he was not pressing for the relief of recovery of dues for which the applicant will take action before the appropriate authorities. However, as regards the first relief, this O.A. has been pressed.

4. In the written statement filed by the respondents the factum about the adoption has been disputed. It has been contended that in order to grab the property of deceased Sri Ram Pandey, his brother Baliram Pandey, who is the father of the applicant, was acting fraudulently. The respondents have disputed the alleged "panchnama" and asserted that there was no valid registered adoption deed nor there were other reliable documents to establish the adoption. It is further asserted that the question of adoption can be determined by a competent Civil Court and this Tribunal cannot decide this disputed question of fact and law. It is asserted that the applicant was not entitled to be appointed on compassionate grounds.

5. I have heard the learned counsel for the parties and have perused the material on record. I will confine my observations regarding the claim for being appointed on compassionate grounds. The question regarding the payment of dues is not being considered as it appears that the applicant may be approaching competent Civil Court for grant of succession certificate.

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6. As mentioned earlier, the applicant has prayed for compassionate appointment after adjudication and declaration that he is the adopted son of the deceased employee. Thus, the question of appointment on compassionate grounds could arise only after it was declared that the applicant was the adopted son of the deceased employee. In this case there is no registered deed of adoption. The applicant has placed reliance on the photostat copy of a document dated 8.6.1987 (Annexure-1) said to be a memorandum of adoption. The validity of this document has been challenged on behalf of the respondents. The applicant has also placed reliance on the entry in the Forms (Annexure-3 series) in which the name of Sri Ram Pandey has been mentioned as the father of the applicant. On behalf of the respondents it has been contended that only a Civil Court has jurisdiction to pass declaratory decree regarding adoption. It is contended that the Civil Court will be competent to decide on the basis of oral and documentary evidence which may be produced before it, as to whether the applicant was validly adopted by the deceased employee.

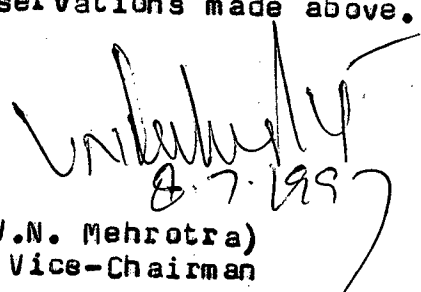
7. I have considered the arguments advanced by the learned counsel on this question. In my view, this Tribunal cannot pass a declaratory decree on the question as to whether the applicant has been adopted by the deceased employee. Such a decree can obviously be passed by a competent Civil Court on the basis of the oral and documentary evidence which may be produced before it. In the circumstances, I am unable to entertain the question as to whether the applicant was in fact

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adopted as a son by the deceased employee. So, the declaration sought for by the applicant cannot be granted in this O.A.

8. The question as to whether the applicant was entitled to be appointed on compassionate grounds will flow from the declaration, if any, regarding his adoption as the son of the deceased employee. In the absence of such a declaration, the question of appointment on compassionate grounds cannot arise. As mentioned earlier, the declaration regarding the factum of adoption can be granted only by a competent Civil Court. In the circumstances it is not possible to direct the respondents to consider the case of the applicant for appointment on compassionate grounds. The applicant may approach the competent Civil Court for the declaration which has been sought by him in this O.A. In case it is held by such a Court having jurisdiction that the applicant was adopted as a son by the deceased employee, then the applicant may approach the competent authority with his prayer for appointment on compassionate grounds.

9. In view of the above discussion, the present O.A. is dismissed subject to the observations made above. No order as to costs.

  
(V.N. Mehrotra)  
Vice-Chairman