

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH**

**O.A. No. 462 of 2006**

**Date of order : 23. 2. 07**

**C O R A M**

**Hon'ble Ms. Sadhna Srivastava, Member ( J )**

1. Chinta Devi, W/o Late Shri Mukhi, Ex- Gangman under PWI/E.C. Railway, Bakhtiyarpur, village Ram Sangh Dihra, P.O. Murhari, District – Nalanda.
2. Naresh Ram, adlpted son of late Shri Mukhi, r/o village Ram Sangh Dihra, P.O. Murhari, District – Nalanda.

**....Applicants**

**By Advocate : Shri M.P. Dixit**

**Vs.**

1. The Union of India through the General Manager, E.C. Railway, Hazipur.
2. The DRM, E.C. Railway, Danapur.
3. The Sr. DPO, E.C. Railway, Danapur.
4. The Sr. DEN (Cord.) E.C. Railway, Danapur.

**....Respondents**

**By Advocate : Shri Mukund Jee on behalf of Sri G.S. Prasad**

**O R D E R**

**By Sadhna Srivastava, M ( J ):-**

The request of the applicants for joining together is allowed.

2. The applicant No. 1 requested for appointment of applicant No. 2 on compassionate ground. A representation

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was also made to that effect. In pursuance of the directions given by this Tribunal in OA No. 379 of 2005 Divisional Railway Manager , Danapur passed a speaking order dated 17.10.2005, rejecting the claim of the applicant No. 2 for appointment on compassionate ground. Hence this OA.

3. The facts are that one Mukhi died on 27.5.2003 while working as Gangman, E.C. Railway, Bakhtiyarpur, leaving behind his widow, Smt. Chinta Devi ( applicant No. 1) and three married daughters. After the death of her husband, the applicant No. 1 made a request to the railway authorities for appointment of Naresh Ram ( applicant No. 2) on compassionate ground. Naresh Ram is admittedly the son of the eldest daughter of the deceased born on 15.6.1983, as alleged by the applicants themselves.

4. The claim is based on the ground that Naresh Ram was adopted by his maternal grand-father - Mukhi. The railway authorities on enquiry did not find it correct that Naresh Ram was the adopted son of Mukhi. Therefore, by the impugned order dated 17.10.2005 ( Annexure A/7) the

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representation of applicant No. 1 requesting for appointment of applicant No. 1 has been rejected.

5. This Tribunal is not supposed to declare that Naresh Ram is or is not the adopted son of Mukhi. Civil Court is the only competent court to pass a decree for declaration about the status of the person like parentage. The applicants have not approached the Civil Court for the reasons best known to themselves.

6. The applicants rely on the case of Union of India vs. Musmat Shital Devi, BLJ 2002 ( 3 ) 558 which lays down that relationship of adoption and foster parents , if bonafide, should be accepted. The facts in the case before the High Court were that the boy alleged to have been adopted was registered in a school as son of the alleged adoptive father. Ex-ward Commissioner of the City Municipality had also issued a certificate to the effect that the alleged boy was shown in the records as the adopted son of the alleged adoptive father. On the basis of this evidence, High Court was pleased to say that the harness rule should not be

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interpreted to defeat it or render the rule of harness nugatory. However, the facts of the case in hand are distinguishable. There is no certificate of School, or Municipal Board or the service record of the deceased employee to show that Naresh Ram was described as the adopted son of the deceased Mukhi during the period of 20 years from 15.6.1983 to 27.5.2003. The Railway Authority also did not find any evidence of adoption during its enquiry as mentioned in the impugned order dated 17.10.2005 ( Annexure A/7). The applicants seek the Tribunal to rely on their own declaration as contained in Annexure A/1 ( declaration by the deceased for obtaining the railway pass), Annexure A/3 ( affidavit of applicant No. 1), Annexure A/4 ( an agreement between the deceased, applicant No. 1 and applicant No. 2). They are self serving statements. There is no proof on record that the ceremony of adoption was gone into. The applicant No.2 was admittedly born on 15.6.1983 and the date of adoption is also shown to be the same. It casts a doubt. The evidence on record shows that applicant No. 2 was treated as a son by

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deceased – Mukhi and his wife. However, the facts of adoption is not proved at all. This Tribunal, in the absence of a declaration by competent civil court, on the basis of evidence on record, is unable to issue a direction to railway authority to consider applicant No. 2 for appointment on compassionate ground.

7. Resultantly, the OA is liable to be dismissed , which stands dismissed, accordingly, without any order as to the costs.

  
[Sadhna Srivastava] M [ J ]

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