

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.965/99.

Thursday, this the 16th day of December, 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
A.V.Satu,
Son of Late Shri Vithal Satu Sapkal,
Ex. Parcel Porter,
Kalyan Railway Station.
(By Advocate Mr.K.B.Talreja) ...Applicant.

Vs.

1. The Union of India,
Through the General Manager,
Central Railway,
Mumbai CST.,
2. The Divisional Railway Manager,
Central Railway,
Mumbai CST.
(By Advocate Mr.R.R.Shetty) ...Respondents.

: O R D E R (ORAL) :

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

Heard Mr.K.B.Talreja, the learned counsel for the applicants and Mr.R.R.Shetty, the learned counsel for the Respondents.

2. Mr.R.R.Shetty, counsel for the respondents opposed the application and says that the OA is not maintainable and it is barred by res-judicata in view of the common order dt. 16.2.1999 in OA 898/93 and 986/95. The learned counsel for the respondents placed before me a copy of the Judgment dt. 16.2.1999.

The applicants' counsel submits that the applicant is the son of first wife and therefore he is entitled to compassionate appointment. He says that he has produced some documents to support his contention.

In OA 986/95, the applicant had come to this Tribunal with a definite case that he is the son of second wife and wanted compassionate appointment. This Tribunal has held that the applicant is the son of 2nd wife, hence he is not entitled for compassionate appointment in view of the Rules. In fact, in the previous case, the applicant had even challenged the vires of the rules on the ground that the Railway Administration cannot deprive the son of a second wife a compassionate appointment and the rule itself is void. This Tribunal rejected that argument and dismissed both the OAs. Now, the applicant cannot turn around after few months and say that he is the son of first wife and therefore, he is entitled to compassionate appointment.

3. When the applicant has approached this Tribunal with a definite case that he is the son of second wife and such a finding has been given in the previous case, the applicant is barred by principles of res-judicata by filing a fresh OA regarding the same subject matter, now by alleging that he is the son of first wife. There must be a finality to litigation and applicant now cannot be permitted to file fresh OA, because there will be no end to this if such a practise is allowed to continue. Therefore, the present OA is not maintainable and is barred by res-judicata in view of the Judgment given by this Tribunal dt. 16.2.1999 holding that the applicant is not entitled for compassionate appointment.

4. In the result, the OA is rejected at the admission stage as not maintainable. No order as to costs.

R.G. Vaidyanatha
(R.G. VAIDYANATHA)

VICE-CHAIRMAN.