

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 531/99

DATE OF DECISION: 3<sup>rd</sup> May 2001

Shri Kishore Narayan Patil and Anr. Applicant.

Shri G.S. Walia Advocate for  
Applicant.

Versus

Union of India and others. Respondents.

Shri R.R. Shetty. Advocate for  
Respondents

CORAM

Hon'ble Shri S.L.Jain, Member (J)

(1) To be referred to the Reporter or not? Yes

(2) Whether it needs to be circulated to other Benches of the Tribunal?

(3) Library. Yes

*S.L. Jain*  
(S.L. Jain)  
Member(J)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:531/99

Thursday the 3<sup>rd</sup> day of MAY 2001

CORAM: Hon'ble Shri S.L.Jain, Member(J)

1. Kishore Narayan Patil
2. Smt. Janibai Pagma Patil

Both the applicants are  
residing at  
Near Beggar's Home Stop  
Janu Wadi, Chandansar Road,  
P.O. Virar, Tal. Vasai  
Dist. Thane.

...Applicants.

By Advocate Shri G.S. Walia.

V/s

1. Union of India through  
General Manager  
Western Railway  
Head Quarters Office  
Churchgate, Mumbai.
2. Divisional Railway Manager  
Mumbai Division,  
Western Railway,  
Mumbai Central, Mumbai.

...Respondents.

By Advocate Shri R.R. Shetty.

O R D E R

{Per Shri S.L. Jain, Member(J)}

This is an application under Section 19 of the  
Administrative Tribunals Act 1985 for direction to the  
respondents to consider the case of the applicant No.1 on merits  
for compassionate appointment.

*PLJ*

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2. The application regarding compassionate appointment is rejected by respondents vide order dated 7.1.1999 (Exhibit 1). Application for compassionate appointment was rejected on the ground that adoption deed is taken on 2.1.1998 after the death of ex-employee. This cannot be accepted under the provisions for issue of privilege passes/PTO.

3. Shri Pagmal Janu Patil who was the husband of applicant No.2 was working as Chargeman (OHE /TRD) in the Western Railway, Mumbai Division, Bombay Central under Senior D.E.E. (OHE /TDR), Bombay Central and he expired on 1.12.1997 due to heart attack. The widow of the said Pagmal Janu Patil adopted applicant No.1 whose date of birth as stated by the applicants is 20.10.1969, <sup>✓</sup> On 2.1.1998, Applicant No.2 <sup>h that is</sup> just to say Smt. Janibai Pagmal Patil applied for compassionate appointment for her adopted son, applicant No.1, Kishore Narayan Patil which is rejected by the respondents vide impugned order dated 7.1.1999 (Exhibit 1). Hence this OA for the above relief.

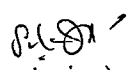
4. On perusal of adoption deed (Exhibit 4) I am of the considered and conclusive opinion that it is not a adoption deed, but recording of a fact of adoption of applicant No.1 in the year 1985. The said adoption took place when Shri Pagmal Janu Patil was alive. At the same time it is also mentioned that the real mother of applicant No.1 was also alive.

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5. The important fact is that the date of birth of applicant No.1 is 20.10.1969. The adoption<sup>is a</sup> said to have taken place in the year 1985 which is in contravention of Section 10(iv) of Hindu Adoption and Maintenance Act, 1956. There is no case of the applicant that there is<sup>a</sup> custom<sup>is</sup> of usage applicable to the parties which permits persons who have completed the age of 15 years being taken<sup>in</sup> for adoption. In the aforesaid circumstances the adoption is in contravention of Section 10(iv) of Hindu Adoption and Maintenance Act, 1956. Hence it is not to be treated as a valid adoption. In this respect the judgement of the Apex Court reported in 1999(2) SC SLJ 475 Chairman, Bihar Rajya Vidyut Board V/s. Chhathu Ram and Others is worth mentioning.

6. In the result the OA deserves to be dismissed and is dismissed accordingly with no order as to costs.

  
(S.L.Jain)  
Member(J)

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