

AS

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

Registration O.A. No.7 of 1989

Maikoo Lal Applicant

Versus

General Manager, Northern Railway
and Others. Opposite Parties.

Hon. Justice Kamleshwar Nath, V.C.

Hon. K.J. Raman, A.M.

(By Hon. Justice Kamleshwar Nath, VC)

This application under Section 19 of the Administrative Tribunals Act XIII of 1985 is for a direction to the opposite parties to give a compassionate appointment to the applicant in place of one Laltoo.

2. Laltoo was a Gangman in the employment of the Northern Railway when he died on 13.6.78. The applicant claimed to be the adopted son of Laltoo and says that he had been applying for appointment in place of Laltoo on compassionate ground. The only application on record is Annexure-A.3 dated 28.9.87. In the meantime, the applicant was granted a succession certificated dated 24.5.86, Annexure-A.1 in respect of the Provident Fund and other monetary claims of the deceased which were also paid to him by the Railways by Annexure-A.2 dated 19.8.87. The present application was filed on 13.1.89.

3. The opposite parties' case is that the present application is barred by time and that

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(A6)

- 2 -

the applicant's representation, Annexure-A.3 dated 28.9.87 was duly considered and the Department refused to give employment to the applicant. The opposite parties have also disputed the applicant's claim of being the adopted son of the deceased Laltoo.

4. We have heard the learned counsel for the parties and have gone through the material on record.

5. It is apparent from Annexure-A.1 that according to the own admission, the applicant was aged about 37 years when he filed the application for succession certificate on 29.1.85. This implies that on the date of making the present application the applicant should have been 41 years of age. Laltoo had died on 13.6.78 and therefore the applicant should have been about 30 years of age at that time. We are not satisfied that the applicant made any application for compassionate appointment. ^{Except Ann-A3, dated 28.9.87} ~~In view of the facts,~~ the applicant has not been able to file any document to show that situation. It is plain enough that the right for compassionate appointment, if there is any legal right, accrued on 13.6.78 and at that time the applicant was in a position to make his claim before the competent Court in case the opposite parties refused to give him the appointment sought for. The least that he could have done was to file a Civil ^{or mandatory injunction} Suit for declaration of his right, for compassionate appointment. It is plain enough that the limitation

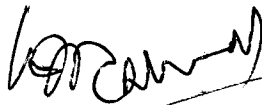
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for any suit for declaration ^{or injunction} would have expired long before the Administrative Tribunals Act, 1985 came into force. That being so, the so-called claim cannot be revived by the making of subsequent representation dated 28.9.87 by Annexure-A.3.

6. It is not necessary to go into other aspects of the case. We find that the applicant has no subsistence^{ing} legal right and the application is dismissed. Parties shall bear their costs.



Member (A)



Vice Chairman

Dated the 5th December, 1989.

RKM

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW.

INDEX SHEET

CAUSE TITLE CA 7 of 1998 (C)

Name of the parties Naiboo Lal Applicant.

Versus.

Union of India Respondents.

Part A.B.C.

| Sl No. | Description of documents | Page |
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| 4 | Resolution | A18 - A19 |
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~~Back copy~~
~~copy~~

~~A1 - A37~~
~~A - C~~

Re check on
MAY 16/2011

Contd. find that no further action is required to take place
that the case is fit for committal to the record room (D)

Reject

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

(A1)

Registration No. 7 of 1987(c)

APPLICANT (s) Mainoolal.

RESPONDENT(s) B.O.K.

.....

| Particulars to be examined | Endorsement as to result of Examination |
|---|--|
| 1. Is the appeal competent ? | Yes |
| 2. (a) Is the application in the prescribed form ? | Yes |
| (b) Is the application in paper book form ? | Yes |
| (c) Have six complete sets of the application been filed ? | No |
| 3. (a) Is the appeal in time ? | Yes |
| (b) If not, by how many days it is beyond time ? | - |
| (c) Has sufficient case for not making the application in time, been filed ? | - |
| 4. Has the document of authorisation/Vakalat-nama been filed ? | Yes |
| 5. Is the application accompanied by B. D /Postal-Order for Rs. 50/- | Yes (I.P.O. NO 507102 Rs 50/- 4 dt 12-1-09) |
| 6. Has the certified copy/copies of the order (s) against which the application is made been filed ? | Yes, |
| 7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | Yes |
| (b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | Yes |

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT DEPARTAMENTO.

C.S./T.A. No. 7 1980, (C)

Maiwco Ltd

Applicant(s)

First

002 E.C.V

Respondent(s)

| Date | Orders |
|---------|---|
| 13.1.09 | <p>Hon A. John, AM</p> <p>Issue notice to respondents to show cause as to why their petition be not admitted. Notice is returnable on 8.2.09.</p> <p style="text-align: right;">P.A.M</p> |
| 13.1.09 | <p><u>OR</u></p> <p>Notices issued to the respondents through Regd Post fixing 8.2.09 for admission.</p> |
| 7.1.09 | <p><u>OR</u></p> <p>Notices were issued to the respondents fixing 8.2.09 to show cause under the regd Post.</p> <p>No Undelivered regd. cover have been return back</p> <p>No reply on behalf of repdts have been filed</p> <p>Submitted for admission</p> <p style="text-align: right;">J.M.H 7/1/09</p> |

Hon' Mr. Justice K. Nath, V.C.
Hon' Mr. D.S. Misra, A.M.

20/4/1989 The learned counsel for the parties have applied for adjournment of the case. The adjournment is allowed. List the case for admission on 1-5-1989.

bl
A.M.

bl
V.C.

(sns)

OR
No reply has so far been filed on behalf of respondents. Submitted for admission
Aug
30/4

Hon' Mr. Justice K. Nath, V.C.
Hon' Mr. D.S. Misra, A.M.

1/5/1989

Shri A.K. Gaur, learned counsel for the respondents is present, and requests for 3 weeks time to file reply. The request made for is allowed. List this case for admission on 22-5-1989.

bl
A.M.

bl
V.C.

(sns)

OR
No reply has so far been filed on behalf of respondents. Submitted for admission
29/5

22.5.89

No Sitting. Adjourned to 24/7/89 for admission.

22/5

24/7/89

No Sitting - say to 31/8/89

31/8/89

Hon. Justice K. Nath, V.C.
Reply has been filed on behalf of opposite parties. The applicant may file rejoinder and list for admission on 20-9-89.
V.C.

24/7

Reply filed today
20/9

OR
The learned counsel for the reply has filed reply on 20/8 but not duly served on the Opp. Case is submitted for admission
30/9

OR
No rejoinder has been filed. Submitted for admission
19/8

1/9

Ganga Prasad Agarwal
Advocate

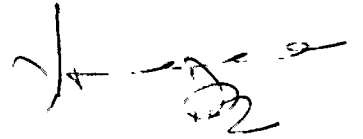
Phone No. : 52192

6, Uncha Mandi,
Allahabad

Date..... 12/12/54

To,
The Secretary
Central Government of India
New Delhi

I hereby authorize Sri Mohan Singh
to collect & pay of all dues - in
1/84 Marked fol. 15 to 16



Admission to Main Copy

tribunal
District branch
Luccombe

al ----- Abblebury
Vs.

Manager N. Rly ----- Respondent

in no I and II

4519 of C.A.T. Act 1928

1929

P. Lecky
Sunderland
Advocate

Refused

FORM - 1
(See Rule 4)

Claim No. GA 5/89(2) of 1989
Instt. O. January, 1989.

PROSECUTION UNDER SEC. 19 OF THE ADMINISTRATIVE TRIBUNALS
ACT, 1945

I. THE CENTRAL ADMINISTRATIVE PROBLEM

CLOTT WHICH LUCK 07.

GA 7 of 29(1)

Maikoo Lai..

••Applicant.

3.

General Manager Northern Railway
and others..

••respondents.

Compilation No. I.

11-5340

| Description of Documents Called Upon | | Page No. |
|--------------------------------------|--|----------|
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| 1. | Application as compilation No. 1 | 1- 8) |
| 2. | Vakalatnama | 9 |
| 3. | Index of compilation No. 2 | 10 |

Date: 12 Jan. 1989

Place: Lucknow.

...nature of the applicant.

मकुवाल
(Maikoo Lal)

For Use in Principal's Office.

through his counsel:

Date of Filing
or
Date of receipt by Post
Registration No.

Suokalus
2000 - 2000

Signature
for Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH:

LUCKNOW.

GA 7 of 09(L)

Maikoo Lal aged about 37 years son of Shri Laltoo resident of Village Kaitnaolia, Post Office Bahinabad District LUCKNOW..

..APPLICANT.

VERGUS.

1. General Manager, Northern Railway, Baroda House, NEW DELHI.
2. Divisional Rail Manager Northern Railway MORADA AD.
3. Asstt. Engineer, Northern Railway, HADDOI.

..

..RESPONDENT.

DETAILS OF APPLICATION.

1. Particulars of Order against which application is made.

| | |
|------------------|------|
| (i) Order No. | Nil. |
| (ii) Dated. | Nil. |
| (iii) Passed by. | Nil. |

As no specific order in writing has been passed, application is not moved against any particular order. Instead it is moved praying for a relief in the nature of Mandamus Command or direction that respondents be directed to consider applicant's claim for appointment on Compensatory grounds in place of

for consideration

...

(A/P)

-2-

his father who died on 13.6.73 while serving as a regular Gangman under P.W.I. Samaila, Northern Railway District Hardoi.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation.

The applicant further declares that the application is within limitation prescribed in Section 21 of the Administrative Tribunals Act 1935.

Certificate of Succession to the property of deceased Sri Laltoo was granted in applicant's favour on 24.5.86. Railway Administration paid arrears of funds of Sri Laltoo to applicant on 19.8.87 and since there has been no order refusing to grant appointment to the applicant on compassionate grounds, cause of action is recurring.

4. Facts of the Case

4.1. That applicants belongs to Scheduled Caste (Chamar) and he was born in year 1950.

4.2. That while applicant was 4/5 years old he was given/taken in adoption, according to the ceremonies, rites and customs of Hindustani, by One Sri Laltoo.

2/9/16

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-3-

- 4.3. That Sri Laltoo was serving as a Regular Gangman under FRI, Northern Railway Kanlila, with whom the applicant resided as adopted son and was dependent to him.
- 4.4. That while in service of Sri Laltoo died on 13.6.1978, in harness.
- 4.5. That Railway administration under its Welfare Policy for its employees, have provided for appointment of dependent of Railway servants who die in harness without process of selection and age limit etc. so where it is provided under rules of Administrative instruction that an adopted son will not be entitled for an appointment of Compassionate grounds.
- 4.6. That upon death of his father Sri Laltoo applicant applied to the respondents for his appointment on Compassionate grounds and receipt of dues of deceased, whereupon he was required to produce Registered Adoption Deed or some order of court declaring him to be adopted son of Sri Laltoo and only thereafter his case was told to be considered.
- 4.7. That applicant accordingly applied for Succession Certificate for the property/funds of Sri Laltoo in the court of Civil Judge, Bahadur District Lucknow, which was granted in his favour on 24.5.1983.

1-11-83
A true & correct copy of certified copy of Succession certificate is attached herewith as

4/11/83

.../4.

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ANNEXURE NO. A-1 to this petition.

4.8. That applicant submitted succession Certificate to respondents praying for release of funds of Sri Laltoo as well as for his appointment.

4.9. That respondent No. 2 vide his letter dated 19.3.87 paid amount of Insurance of Sri Laltoo that the applicant but gave no response about his appointment.

A True copy (Photostat) letter dt. 19.3.87 is attached herewith as ANNEXURE A-2 to this petition.

4.10. That thereafter applicant on 23.9.87 moved another representation to respondent No. 3 for consideration of his case for appointment on compenssionate grounds but this too has not been responded in any manner.

A true copy of aforesaid application is attached herewith as ANNEXURE A-3 to this petition.

4.11. That when applicant's case for appointment was absolutely ignored from being considered applicant referred the matter to Northern Railway Men's Union Lalana Branch. The Union at its level wrote two letters dt. 1.12.87 and 25.12.87, which too have not been responded.

21
H. Chellam

True photo copies of aforesaid letters dt. 1.12.37 and 25.12.37 are attached herewith as ANNEXURE A-4 and A-5 to this Claim petition.

- 4.12. That since nothing has been done by respondents to do not appear serious about the matter as such applicant has been left with no option but to prefer this claim on and amongst other the following.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

- A) Because it is statutory obligation upon respondents to appoint the dependent son or any one of the heir of an employee who died in harness.
- B) Because to keep matter of such appointment pending for years and years together leads to arbitrariness.
- C) Because applicant is legally declared and factually adopted son of Late Sri Laltoo.
- D) Because allowing pensionary benefits of deceased to applicant, treating and describing him to be his adopted son but ignoring claim of his appointment as Compassionate grounds is illegal.
- E) Because action of the respondents is highly arbitrary and unjust.

4/11/41

(AM)

F) Because cases of appointment on compassionate grounds should be viewed sympathetically as held by this Hon'ble Tribunal in 1985 UPLBEC 44 Smt. Gayatri Devi Vs. Union of India.

6. Details of Remedies exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules:-

Details of representations and their outcome with reference to number of Annexure is given below:-

- | | |
|---|-----|
| (i) Representation Dt. 23.9.37 | A-3 |
| (ii) Representation Dt. 1.12.37 through Union. | A-4 |
| (iii) Representation Dt. 25.12.37 through Union. | A-5 |

None of the representation has been decided neither applicant has been served with any sort of specific order in writing regarding his appointment compassionate grounds.

7. Matters not previously filed or pending with any other court

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition

Signature .../7.

915

..7..

or suit is pending before any of them.

3. Reliefs sought:

In view of the facts mentioned in para 4 above as well as on grounds and legal provisions in paras 5 the applicant prays for the following reliefs:-

(i) a declaration, direction or order in favour of applicant to the effect that he is entitled for appointment on compassionate grounds in place of his deceased father Sri Laltoo and as a necessary consequence of which respondents be directed, commanded to appoint the applicant on a suitable job and in case he is found over age the power of relaxation of upper age limit be exercised, within a specified time as may be prescribed by this Hon'ble Tribunal.

(ii) Costs of the claim petition and such other reliefs as may be deemed fit and proper in the circumstances of the case to also awarded to the applicant.

9. Interim, if any prayed for

Nil.

10. Application is presented through counsel

Smt. Sudha Misra, Advocate, Lucknow.

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११/११/११

.../3.

ATC

-3-

11. Particulars of Lank Draft, Postal Order filed in respect of the application fee.

Postal order No. DD 007102
Date of Issue 4
Issued at Post office 12-1-89
Payable at Post office Lal Bag Lucknow
Allahabad

12. List of enclosures:

1. Demand Draft, Postal order.
2. Index of Compilation No.1.
3. Paper Book of Copilation No.1
4. Index of Compilation No.2.
5. Paper Look of Compilation No.2.
6. Vakalatnama.

Sri Lal Lal applicant,
मैकू लाल
Maikoo Lal

V E R I F I C A T I O N

I, Maikoo Lal Son of Sri Laltoo aged about 37 years (at present not employed any where) resident of village Kaitholia, Post Rahimabad Distt. Lucknow do hereby verify that the contents of paras 1 to 4, 6,7,10 11 and 12 are true to my personal knowledge and paras 5,3 and 9 are believed to be true on legal advise and that I have not suppressed any material fact.

Signature of applicant.

Date: 12 Jan. 1989
Place: Lucknow.

मैकू लाल
(Maikoo Lal)

अदालत श्रीमान

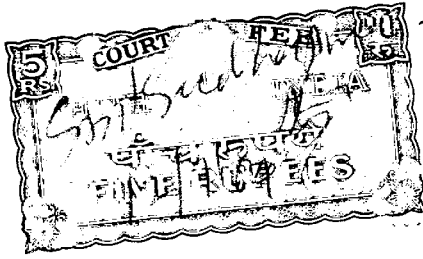
महोदय

[वादी] अपीलान्त

प्रतिवादी [रेस्पान्डेन्ट]

श्री Markoolal

का वकालतनामा



Markoolal

वादी (अपीलान्त)

G M N Rly 150th.

बनाम

प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं०

सन्

पेशी की ता०

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ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Sanjiv Kumar Singh

वकील

महोदय

एडवोकेट

नाम अदालत
मुकदमा नं० नाम
फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted
In witness

हस्ताक्षर

Sanjiv Kumar Singh

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

12
A/E

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH
LUCKNOW

Maikoo Lal..

..Applicant.

Vs.

General Manager N.Hy. Mooradabad & others..

..Respondents.

Compilation No. II.

I N D E X.

| ----- | |
|---------|---------------------------------|
| Sl. No. | Description of Annexures |
| ----- | |
| 1. | Annexure No. 1 |
| | Copy of Succession Certificate. |
| 2. | Annexure No. 2 |
| | Respondents letter Dt. 19.3.37 |
| 3. | Annexure No. 3 |
| | Representation Dt. 23.9.37 |
| 4. | Annexure No. 4 |
| | Unions letter dt. 1.12.37 |
| 5. | Annexure No. 5 |
| | Union Letter dt. 25.12.37 |

Applicant,

Maikoo Lal
(Maikoo Lal)

Dated: 12 Jan. 1939

through his counsel:

Place: Lucknow.

S. S. Chandra
S. S. Chandra,
Advocate.

THE SECRETARY OF THE
AIR

For the Secretary of the
Department of the Interior

Dear Sir:
Reference is made to your letter of the 10th inst.

concerning the proposed construction of a road
from the mouth of the River to the mouth of the
River, and the proposed construction of a road
from the mouth of the River to the mouth of the
River.

The proposed construction of a road from the mouth
of the River to the mouth of the River, and the
proposed construction of a road from the mouth of
the River to the mouth of the River.

Very truly yours,
The Secretary of the Department of the Interior,
Washington, D. C.

After the
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Handwritten text, mostly illegible due to fading and bleed-through. Some words like "The" and "and" are visible.

Handwritten signature or name, possibly "J. G. ...".

4th Street
New York City

1925

(2)

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REPLICANT

REPLY

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Page

SRDF/78/POL-500

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Handwritten notes and signatures in the lower middle section.

Please contact POL-SAN
to receive the above report

Allegation
Transcript

FEDRM

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench, Lucknow.

Prirao Lal..

vs.

..APPLICANT.

General Manager N.Haily & others.. **A3**
AN-5415 No. -- A3

..RESPONDENT.

श्री प्रीरा लाल जी ने अपने पत्र में लिखा है कि मैंने
नवम्बर १९५७ में जे.एन.ए. के अधीन एक पत्र लिखा था
जिसमें मैंने देखा कि १३-६-७४ को मैं गया था।
उसी समय अनुमति के आदेश पर
मैंने श्री प्रीरा लाल जी की चीजें देखीं।
मैंने देखा कि श्री प्रीरा लाल जी के दस्तखत हैं।
मैंने देखा कि श्री प्रीरा लाल जी के दस्तखत हैं।
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मैंने देखा कि श्री प्रीरा लाल जी के दस्तखत हैं।

किन्तु मैंने देखा कि श्री प्रीरा लाल जी के दस्तखत हैं।
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मैंने देखा कि श्री प्रीरा लाल जी के दस्तखत हैं।
मैंने देखा कि श्री प्रीरा लाल जी के दस्तखत हैं।

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10/11/74
10/11/74
10/11/74

Attest
True Copy
मेजर -

15- (A32)

• • APPLICANT

• • R597

(Registered & Recognized)

C2W4A Railway Station
BALAMAU (P.g.doi)

Dated 1/12/2019

Wm. H. Murray

1. Hypertension of 140/90 to 160/90 mm Hg
 2. Non-pulsatile, non-compressible

[illegible]

Application of this Marker to the ground in the vicinity of the Marker 1

It is therefore suggested that the following
be the first consideration in the selection
of an individual for the purpose of making
a purchase.

१५/११/२०२०
 श्री. लाल

16
1124

In THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit Bench: Lucknow.

Maikoo Lal..

Vs.

General Manager N. Raily & others..

ANNEXURE No. --- **A5**

..APPLICANT.

..RESPONDENT.

NORTHERN RAILWAY MEN'S UNION

(Registered & Recognised)

Affiliated To : All India Railway men's Federation & Hind Mazdoor Sabha
(BALAMAU BRANCH)

C2W4A Railway Station.
BALAMAU (Hardoi)

No. NRMU. Enq. 1/22

Dated 25/12/22 198

J.
The Regional Railway Manager,
Moradabad.

Sub - Approximate of Maikoolal S/o Late Kallu Gang
Man under Sec/SAF reported on 18/6/20
Ref. My letter even no. 21/12/22

Dear Sir,
My son Maikoo reported while in service on 18/6/20
the present was made to Mr. Maikoo Lal in 1986 when
he was a young legal heir to late Maikoo. Mr. Maikoo
was appointed for appointment since 1978 but in
approximate ground. But I feel sorry to inform
that this employment has not been done on
same as other cases where he is entitled for
employment because employment by this means.

It is necessary to point out that the Indian
Railways Act, 1925 (Amendment) has given direction
that the employment should be given to
the legal heir of employee of the employee who
was in service in 1947. It is dated 20/6/22. It
is the duty of the Mr. Maikoo Lal is
the legal heir of the late Maikoo who has
been employed by the railway and on payment
of money from the railway on the
basis of the law.

It is suggested that the appointment
of the legal heir of the late Maikoo should
be made in accordance with the law. The
law is that the legal heir of the employee
who was in service in 1947 should be
employed by the railway on the basis of the
law.

Maikoo Lal
[Signature]
[Signature]

(Court)
I.

~~Court~~

Central Administrative Tribunal
Lucknow,

CA NO. 7/89
— Mukherjee Lal
vs.
in. ol.

— for Respondent.

G. P. Agarwal
Adv.,

A25

Before the Central Administrative Tribunal, Allahabad
Registration No.7 of 1989

Maiku Lal - - - - -Vs.- - - - -G.M.Northern Railway &
others.

In brief the caste of the Railway administration
is as under:-

1. That the applicant wants appointment by the order of the Hon'ble Tribunal on the ground that his alleged father Ialtu died on 13.6.78 while he was serving as a regular Gangman under P.W.I. Sandila and on the basis of a circular of Railway Board dated 7.4.83.
2. That the present case is grossly barred by time as the petitioner has pleaded that ~~he~~ he is an adopted son of Ialtu who adopted him while he was of 4-5 years of age Ialtu died on 13.6.78, so a definite cause of action for the petitioner arose on 13.6.78 as he was major and Ialtu died in 1978, so in 1989 the relief sought by the petitioner cannot be granted. The point has already been finally adjudicated by the different Benches of the Hon'ble C.A.T. that a matter prior to 3 years from the enforcement of a C.A.T. cannot be reopened.
3. That to have an employment on compassionate grounds is an absolute discretion of the Department and the Department is obliged to consider such matters objectively, the same has already been done in this case and the prayer as sought cannot be allowed otherwise it shall be a direct encroachment on the

*Recd defunct.
M. 25
T. 5000
31.8.89*

1-6

absolute right of the department. The decision of the department is fair and is not tainted with malafide, capricious and arbitrariness as the same has too not been alleged in the petition so a fair and natural conclusion is that the department acted with fairness.

4. That as per circular referred supra the petitioner (ward) in para 2 persons eligible to be appointed on compassionate grounds may be son/daughter widow /widower of the employees are eligible to be appointed on compassionate grounds in the circumstances in which such appointments are permissible. The benefit of compassionate appointments may also be extended to a 'near relative'. The eligibility of a near relative to such appointments will be subject to the following conditions.

i) The employee or the Ex-employee should have no son or daughter is a minor one and the wife/widow /widower cannot take up an employment.

ii) A clear certificate should be forthcoming from the wife/widow/widower that the near relative will act as the bread winner of the family. E(NG)III/78/RC-1/1 dated 286-79) SE 163/79, 210/79.

iii) If the family certificate at a later date that the near relative who was appointed on the compassionate grounds refused to support the family the services of that employee are liable to be terminated.

AM

contd. ...3

iv) Once a near relative is appointed on compassionate grounds, no further appointment should be given later to a son or a daughter or the wife/widow/widower of the employee on compassionate grounds. The appointment of ~~the~~ near relative should not be considered if a son or the daughter or the wife/widow/widower is already working and is earning.

Note: (B) Near relative would normally mean a blood relation who can be considered to be a bread winner for the family.

5. That the circular emphasises two-requisites, the employee must die during the course of duty or die in harness. Second requisite is that ward must be eligible as mentioned above. In the present case the petitioner does not come under clause 2 of the circular, specially during the entire tenure of service the petitioner did not declare that the petitioner is an adopted son and that is why he has not taken any pass, PTD for the petitioner which is a statutory obligation for the petitioner. In another 'ward' is not an adopted son.

The next reason is that throughout the petition the petitioner has not pleaded that he was dependent on the ~~the~~ deceased Ialtu. Looking to the age of the petitioner i.e. about 40 years and looking to the service of Ialtu the question of,

contd.....4

A28

- 4 -

~~not arise~~ and hence giving an employment on compassionate grounds does not arise, otherwise it shall breed fictitious petitions thereby a direct deprivation to regular and rightful persons for job.

6. That since adoption has become compulsory, registrable the same is also lacking in the present case.

7. That the grant of succession certificate does not mean that the petitioner is an adopted son of Laloo. The succession certificate simply gives a seal of the court that the estates of the deceased may be given in whose favour the succession certificate has been granted. I also rely on 1987 A.T.C. Vol. V page 512, Usha Devi....Vs.....G.M. Southern Railway held 'Casual labour acquiring temporary status is not an Railway employee and he died in course of duty his dependent cannot seek employment on compassionate grounds. Again further I rely on 1989 A.T.R. Vol. & page 99 Sri Rakesh Mathur---Vs.--- union of India' appointment on compassionate grounds is not of right, Tribunal cannot direct for such appointment.

8. That Laloo died a natural death on 13.6.78 as per entry in the S.R. He was an unauthorised absent since 15.5.74 to the date of death. In any case if the petitioner had any interest or ~~last~~ attached to Laloo, he must have contracted to the Railway Administration during his life time. (Life time of Laloo) Non appearing means, he is not adopted son.

parawise reply of the petitioner is as under:

1. That ~~haxx~~ the contents of para 1 of the petitioner

2024
Engineer
Electrical

A2-1

-5-

needs no comment.

2. That the contents of para 2 of the petition needs no comment.

3. That the contents of para 3 of the petition are denied. The petition is grossly barred by time.

4. 1. That the contents of para 4/1 of the petition are not admitted for want of knowledge.

5. That the contents of paras 4/2 and 4/3 of the petition are not admitted.

6. That the contents of para 4/4 of the petition needs no comment.

7. That the contents of para 4/5 of the petition are denied.

8. That the contents of para 4/6 of the petition are denied.

9. That the contents of para 4/7 of the petition are denied for want of knowledge.

10. That the contents of para 4/8 of the petition are denied.

11. That the contents of para 4/9 of the petition are denied.

12. That in the contents of para 4/10 of the petition it is only admitted that the representation was made and the same was duly replied.

13. That the contents of para 4-11 of the petition are denied.

contd.....6.

11-11-11

ब अदालत श्रीमान

Central Administrative Tribunal
Circuit Bench.

महोदय

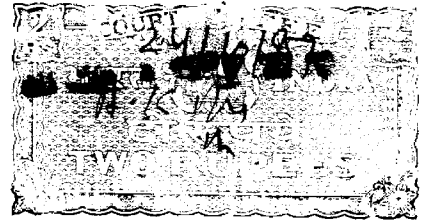
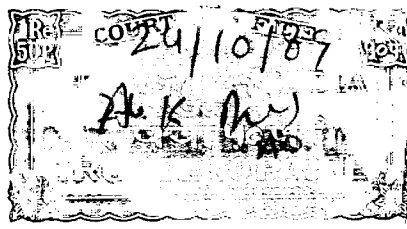
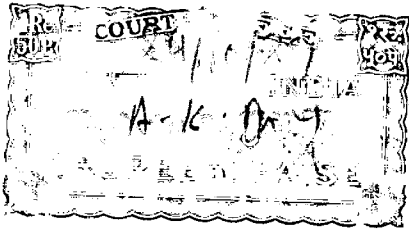
[वादी] अपीलान्त

श्री Maikoo Lal का

प्रतिवादी [रेस्पान्डेंट]

Claim No. 7-89(L)

वकालतनामा



मुकदमा नं०

Maikoo Lal

सन्

प्रतिवादी (रेस्पान्डेंट)
Union of India

पेशी की ता०

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ऊपर लिखे मुकदमा में अपनी ओर से श्री

Aghaya Kumar Singh

Advocate, Lucknow

वकील

महोदय

एडवोकेट

नाम अध्याक्ष
मुकदमा नं० नाम
फरीकन

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पेशी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें-वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने परोकार को भेजता रहूंगा खयर मुकदमा अदम पेशी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted.

[Signature]

हस्ताक्षर मैकू लाल पुत्र लालू

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

मंत्रालय
Ministry of

विभाग
कार्यालय

Department
Office of

अनुभाग
SECTION

टिप्पणियां/पत्राचार
NOTES/CORRESPONDENCE

विषय
Subject

.....को सूचीबद्ध की गई
Indexed on

.....
Initials

अभिलेख क्र/ख
Record A/B

अभिलेख नं० से नष्ट की जाए
Record C. Destroy In

अनुभागीय नोट बुक में नोट किया जाय
नोट न किया जाए

To be noted In Sectional Note Book
Not to be noted

अनु० ७०/अधीक्षक के आदेशकर्ता
Initials of S. O./Supdt.

लिपिक के आदेशकर्ता
Initials of Clerk.

पिछले हवाले
Previous References

बाद के हवाले
Later References

IN THE Central Administrative Tribunal
Bhilai

CA NO 7 of 2009 (2)

Marko Lal + - - - - - Claimant

vs

1. C.M. Northern Ry. Co. - - - - - Respondents

D1

5/12/09

J. K. Singh

AB2

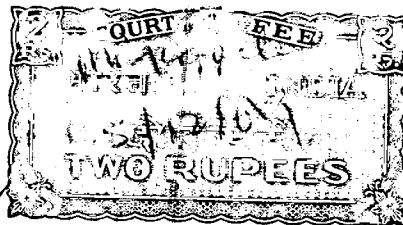
In The Central Administrative Tribunal, Lucknow.

O.A. No. 7 of 1988 (L)

Fixed on 5.12.89

Rejoinder Affidavit on behalf of Applicant.

1989
AFFIDAVIT
30/2/85
HIGH COURT
ALLAHABAD



Maikoo Lal..

..Claimant.

Vs.

G.M. Northern railway and others..

..Respondents.

AFFIDAVIT.

I, Maikoo Lal aged about 37 years son of Sri Laltoo, Resident of village Kaitholia, Post Office Rahinabad Distt. Lucknow do hereby solemnly affirm and state on oath as under:-

Recd by
JA
5/11/89

1. That deponent being applicant/claimant is fully conversant with the facts of the case. He has got read and understood the counter reply of respondents to which he responds as under:-

P.T.

5/12/89

Reply of Brief Case of Railway

2. That contents of para 1 need no reply. So far as contents of para 2 are concerned same are not admitted as written. It is not disputed that deponent's father Sri Laltoo died on 13.6.78 during the course of his duty. In view of facts submitted in paras 4.6 to 4.8 of the claim petition and particularly because it was only on 19.8.87 that respondents made payment

5/12/89

2/3-1/1/89

AB3

-2-

of dues of deponents' father, cause of action arose only on this date and not earlier to it. Deponent has stated in para 4.10 of his claim petition that the representation moved by him has not been responded but in para 12 (page 5) of counter reply it has been asserted by respondents, "that the representation was made and the same was duly replied" (though deponent has not received any such reply nor respondents have disclosed any specific date of such reply) the cause of action beings from date of receipt of such reply (if any such reply factually exists). Therefore to say that claim petition is barred by time is factually and legally not correct.

3. That contents of para 3 are not admitted as written. Appointment of an heir of deceased Railway servant dying in harness is not an unfettered discretion of Department. Decision of Department (which is not to the knowledge of deponent) is arbitrary, unjust and unfair.

4. That contents of para 4 with regards to pharaseology of circular is concerned is not disputed while its interpretation as is being done by respondents is not admitted.

5. That contents of para 5 of counter reply are denied

5/12/80

(1) Sec. 12 of The Hindu Adoption and Maintenance Act 1956 provides that " an adopted child shall be deemed to be the child of his a new adoptive father or mother for all purposes

3/2/80

A34

..3..

with effect from the date of adoption and from such date all the lies of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family." Thus if the concerned circular of railways refers about "Son" it shall be deemed to include "Adopted Son" and even if "adopted Son" is excluded by such Circular (though there is no such exclusion) same being contrary to law has to be ignored. Deponent is not "Ward" but "Adopted son" of Laltoo.

(ii) Deceased Laltoo has nowhere declared that he has got no issue. If there is any such declaration made by deceased Laltoo same must be produced before Hon'ble Tribunal.

(iii) It is not mandatory that every employee must take "Pass" or "PTO" It depends upon his need and to bear other touring expenses. There is no such "statutory obligation" instead it is a "Privilege" which is on the discretion of employee to avail or not to avail.

(iv) Deponent was adopted in the age of 4/5 years according to the ceremonies, rites and customs of Biradari (Chamar). Present age of deponent is 37 years in 1989, he was of 4/5 years of age in the year 1956-57 In the year 1978 i.e. year of Laltoos death deponent was about 26 years

1
3/11/89

27/5/89

AB 5

of age. Deponent was "Dependent" of his father Laltoo deceased. He could not have applied for any appointment during life time of Laltoo. The time taken in dispossal of matter, goes to the credit of Respondents. Thus the reasons of delay are attributable to the respondents and not to the deponent.

6. That contents of para 6 of counter Reply are denied. Since Adoption has taken place in the year 1956-57 and Registration of Adoption has become necessary in Uttar Pradesh only from 1.1.1977 and not earlier to it bar of Non Registration does not operate. Sec. 6 of Hindu Adoption and Maintenance Act 1956 does not prescribe registration as an essential requisite of adoption. Deceased Laltoo has the capacity and right to adopt, natural parents of deponent had right and capacity to give deponent in adoption, the adoption was not contrary to law, custom and usages of Hindu Dharma and Biradari.

7. That contents of para 7 are denied.

(i) Succession Certificate was granted after following due procedure of general notice etc. as provided under section 373 of Indian Succession Act. It was on this basis that Respondents treated him as "Son" of deceased Laltoo in their order Dt. 19.8.87 which is Annexure A-2. In this way respondents are estopped from pleading otherwise. It is also pertinent to point out that if respondents had any objection to court's verdict they should have objected to it.

5/12/89

(ii) The cases relied upon by respondent (1987 ATC

5/12/89

A36

-5-

Vol. V page 512 and 1989 ATR Vol. 4 page 99) related to casual Labour only. Here deceased Laltoo was a regular Gangman and not a casual Labour. As a Regular Gangman deceased Laltoo was entitled to all benefits of PF Rules, WC Act, Insurance, Gratuity etc.

(iii) Deponent has stated in his claim petition that he being son of deceased Laltoo was dependent upon him. Deponent has no other source of income nor any other profession. He was dependent upon deceased Laltoo.

Parawise rejoinder of Counter reply (Pages 4 and on wards of Counter reply).

1. That contents of para 1 need no comments.
2. That contents of para 2 need no comments.
3. That contents of para 3 are denied claim petition is perfectly within time as submitted in earlier para 2 of this rejoinder.
4. That contents of paras 4 to 13 are denied. The denial is evasive and highly irresponsible in as much as respondents have also denied. Contents of para 4.3 of claim (vide para 5 of their counter) which can not be a disputed fact. In the same irresponsible manner respondents have even denied 4.9 of claim (vide para 11 of counter) whereas the fact of payment of dues and funds of deceased Laltoo is an admitted fact. Thus the respondents have made irresponsible allegations.

5/12/04

5/12/04

A37

5. That deponent is entitled for the reliefs prayed.

Deponent,

Lucknow Dated:
5 Dec. 1989

श्री माकू लाल
(Maikoo Lal)

Verification.

I, above named deponent do hereby verify that the contents of paras 1 to 4 to be true from my personal knowledge and paras 1 to 5 to be true from my belief. No part of it is false and nothing material has been concealed. So help me God.

Deponent,

Lucknow: Dated
5 Dec. 1989

श्री माकू लाल
(Maikoo Lal)

I, know and identify the deponent who has signed on this affidavit in my presence.

श्री अ.क. दित्त
A.K. Dixit,
Advocate.

5/12/89

Solemnly affirmed before me by the deponent Sri Maikoo Lal on 5/12/89 day of Dec., 1989 at 10-45 a.m./p.m. who is identified by Sri A.K. Dixit, Advocate, of this court. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me to him.

श्री अ.क. दित्त
A.K. Dixit,
Advocate.

Oath Commissioner.

श्री अ.क. दित्त
A.K. Dixit,
Advocate.

30/12/85
5/12/89