

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.770 of 1989

DATE OF JUDGMENT: 26.6.1991.

BETWEEN:

Smt. A. Rukmini .. Applicant

AND

The Chief Workshop Manager,
South Central Railway,
Lallaguda,
Secunderabad .. Respondent

COUNSEL FOR THE APPLICANT: Mr. D. P. Kati

COUNSEL FOR THE RESPONDENT: Mr. D. Gopala Rao, SC for Rlys.

CORAM:

Hon'ble Shri J. Narasimha Murthy, Member (Judl.)

Hon'ble Shri R. Balasubramanian, Member (Admn.)



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respondent called for the death certificate of the applicant's husband and after submitting the same, the respondent changed the ground and negatived the request of the applicant stating that the argument of the widow and that of the late employee, that both A.Surya Prakash and A.Pradeep Kumar are one and the same, is not acceptable. The ^{Respondent} applicant was also afforded Apprenticeship Training facilities to the son of the applicant for two years in the name of A.Pradeep Kumar and he has passed the Apprenticeship training in April 1989. So, she filed this petition for the above said relief.

2. The respondent filed a counter with the following contentions:-

Mr. A.Sathaiah, son of Sayanna who was appointed in Workshop, Lallaguda on 28.7.1947 was medically found unfit on 18.12.1986 and subsequently died on 25.7.1988. The deceased employee in his representation dated 30.1.1987 requested for compassionate ground appointment to his eldest son named A.Pradeep Kumar. The name of the eldest son viz., A.Pradeep Kumar differs from the one that was furnished in the family composition declaration given by the employee during his service, which shows his elder son's name as A.Surya Prakash. When clarification ^{was} sought, the deceased employee as well as his son furnished sworn affidavits declaring that A.Pradeep

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE SHRI J.NARASIMHA MURTHY, MEMBER (JUDL.)

This petition was filed by the petitioner to set-aside the impugned order No.CON/WE34/Comp/18/89, dated 26.5.1989 and direct the respondent to appoint her son A.Pradeep Kumar Urf A.Surya Prakash in the Welder Trade in which he has completed his Apprenticeship in the Railways, or post him in any other post in Railways on compassionate grounds. The contents of the petition are briefly as follows:-

The applicant, Smt. A.Rukmini, wife of A. Sattaiah, contends that after demise of her husband who retired on Medical Invalidation from Carpentry Works, Lallaguda Workshop, ^{she} was granted family pension by the Railways but her son A.Pradeep Kumar (is) not given compassionate appointment in Railways on the ground that her husband in his declaration for settlement purpose indicated his son's name as A.Surya Prakash. This objection was raised by the respondent during the life ~~of~~ time of the deceased Shri A.Sattaiah, son of Sayanna and the said Shri Sattaiah submitted his affidavit duly attesting by the Metropolitan Magistrate, Hyderabad that his son A.Pradeep Kumar is none other than that Surya Prakash and the ^{said} sworn affidavit dated 26.9.1987 was filed in original with the respondent/ Railways by the applicant's husband. But as late as on 15.4.1989 in letter No.DN/WE34/Comp/18/89, the

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Kumar is ~~no~~^{none} other than A. Surya Prakash whereas the deceased employee in his representation dated 30.9.1987 stated that his wife, who is working as Teacher enrolled his son's name in the school records as Pradeep Kumar without his knowledge. But at the same time, in his affidavit dated 26.9.1987 he stated that he named his son as Pradeep Kumar at the time of joining him in the school. As these factors created doubt, the respondent advised that the affidavits furnished by the employee and his son were not accepted by the administration and that after carrying out the corrections of name by the educational authorities, to resubmit the Transfer Certificate along with the memorandum of marks issued to failed candidates by the Board of Secondary Education, A.P. This is necessitated ~~for the reason that~~ if employment is offered, the service record and other records would be based on the educational and other certificates which contains the date of birth and other particulars. In case the son is given employment in his name Surya Prakash as declared by his father, it would only lead to complications in future. It is quite surprising why he feel shy of getting by a Gazette Notification changed his name as Surya Prakash and apply for considering the job. The Gazette Notification will cure all the defects whereas the sworn affidavit does not. In view of the



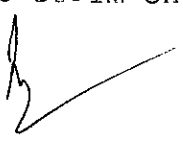
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contradictions appearing in the family declaration and school records and the individual failure to submit the corrected school records, the individual advised vide letter dated 7.10.1987 that his affidavits submitted along with his representation dated 30.9.1987 are not acceptable to the administration. After the death of the employee, the applicant vide her representation dated 6.4.1989 requested to appoint her son A.Pradeep Kumar on compassionate grounds enclosing copies of the earlier affidavits furnished by her husband. Neither the deceased employee nor his wife have made any efforts to get the school records changed but harping on the affidavits in contesting their case for compassionate appointment. She was given a regret reply after being seen by the Respondent herein vide letter dated 26.5.1989.

3. On scrutiny by the administration, it was found that Shri Sathaiah had given a declaration enlisting the members of his family which does not contain the name of A.Pradeep Kumar as his eldest son. His eldest son's name was shown in the declaration as Surya Prakash. Since the family declaration shows Surya Prakash as his eldest son, the administration asked ~~the~~ Shri Sathi vide letter dated 15.7.1987 for a clarification for the variation in the name of his eldest son.

4. Apprenticeship training has nothing to do with the present claim on compassionate grounds. The appr



nticeship training will be given to anybody who applied and found eligible. The said training was given on an independent right and hence that cannot change the declaration of the deceased employee. The O.A. is liable to be dismissed as the Union of India is not made as party respondent. The O.A. is not filed by the aggrieved party namely Mr. Pradeep Kumar, who is a major. Hence, the O.A. cannot be entertained as per the provisions of the Administrative Tribunals Act and Rules. The applicant has not exhausted the remedies available to her before approaching this Tribunal. For the above reasons, it is stated that the application is liable to be dismissed.

5. The learned counsel for the petitioner, Shri D.P.Kali and the learned Standing Counsel for the Railways, Shri D.Gopala Rao, argued the matter. During the course of arguments, the learned counsel for the applicant stated that as per the directions given by the Respondent the name of the petitioner's son got published in the Gazette as A.Surya Prakash but not A.Pradeep Kumar. So, as per the requirements of the Respondent, the Gazette publication was given. On that grounds, he asked the Court to direct the Respondent to appoint the applicant's son on compassionate grounds.

6. Though the Gazette Notification was given, that the name of the son of the petitioner be read as



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Surya Prakash but not Pradeep Kumar, they did not make any representation after the Gazette Publication was made. So, we direct the petitioner to make a representation stating that a Gazette publication was made to the effect that the name of her son is Surya Prakash but not Pradeep Kumar, enclosing a copy of the Gazette Notification to the Respondent for consideration of appointment of her son on compassionate grounds and we direct the respondent also to consider the case of the petitioner's son Shri A.Surya Prakash on compassionate grounds and see that he is appointed in any of the posts available with them.

7. The application is accordingly disposed of. There is no order as to costs.

MS

(J.NARASIMHA MURTHY)
Member(Judl.)

R. Balasubramanian

(R. BALASUBRAMANIAN)
Member(Admn.)

Dated: 26th June, 1991. *85/7/91*
Deputy Registrar(A)

- To
1. The Chief Workshop Manager, S.C.Rly, Lallaguda, Secunderabad.
 2. One copy to ~~Mr. D.P. Kali~~ Mr.D.P.Kali, Advocates, 3-2-763 Kachiguda Hyderabad.
 3. One copy to Mr.D.Gopala Rao EC for Rlys CAT.Hyd.
 4. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J) CAT.Hyd.
 5. One spare copy.

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vsn

Handwritten signature and date 4/7/91

Asst
31/7/91
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TYPED BY _____ COMPARED BY _____
CHECKED BY _____ APPROVED BY _____

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA: V. C.
AND
THE HON'BLE MR. D. SURYA RAO: M(J)
AND
THE HON'BLE MR. J. NARASIMHA MURTHY: M(J)
AND
THE HON'BLE MR. R. BALASUBRAMANIANEM(A)

DATED: 26-6-1991.

ORDER / JUDGMENT.

M. A. / P. A. / C. A. No.

in

F. A. No.

W. P. No.

O. A. No. 720 / 84

Admitted and Interim directions issued.

Allowed. _____

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M. A. Ordered/Rejected.

No order as to costs.

Central Administrative Tribunal
DESPATCH
6 JUL 1991
HYDERABAD BENCH.