

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 192/97 199
T.A. No.

DATE OF DECISION 6.2.1998

Bhagwan Dass

Petitioner

Mr. N.K. Gautam

Advocate for the Petitioner (s)

Versus

Union of India and others

Respondent

Mr. M. Rafiq

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. RATAN PRAKASH, MEMBER (JUDICIAL)

The Hon'ble Mr.

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement ? *Y*
- ✓ 2. To be referred to the Reporter or not ? *Y*
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement ? *Y*
- ✓ 4. Whether it needs to be circulated to other Benches of the Tribunal ? *Y*


(RATAN PRAKASH)
MEMBER (JUDICIAL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:JAIPUR BENCH:
J A I P U R.

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O.A. No. 192/1997

Date of order: 6.2.1998

Bhagwan Dass son of Mangilal, aged 59 years, Ex. m.c.f.,
Ticket No.10420/22, Carriage Workshop, Ajmer andresident of
1472/30, Chuna Bhatta Nagar, Ajmer.

: Applicant

versus

1. Union of India through General Manager, W. Rly.
Bombay/Mumbai.
2. Chief Works Manager, Loco Workshop, W. Rly., Ajmer.

: Respondents

Mr. N.K. Gautam, counsel for the applicant

Mr. H.K. Kapoor, CLA, Departmental representative for the
respondents.

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O-R-D-E-R

(PER-HON'BLE-SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

The applicant herein Shri Bhagwan Dass has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to seek a direction against the respondents to issue Complimentary Railway Pass of First Class for the year 1997 in favour of himself, his wife and his adopted daughter with a further prayer to direct the respondents not to deny these passes as per procedure.

2. Undisputed facts of the present OA are that the applicant was appointed with the Respondent Railways on 18.4.1957 as a Khallasai and after being promoted on various posts, he finally retired on superannuation from the Railway Service w.e.f. 31.12.1995 while holding the post of Master Craftsman.

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3. It is the case of the applicant that he adopted a girl on 5.10.1995 as per customs prevailing in his family in proof of which he has also filed an Adoption Deed (Annex.A-2). It is further the case of the applicant that after retirement, the respondent No.2 i.e. the Chief Works Manager, Loco Workshop, Western Railway, Ajmer issued an Identify Card (Annex.A/3) for Complimentary Passes in favour of him, his wife Smt. Kanta Klara and his adopted daughter Kumari Hen Reeta. It is the grievance of the applicant that since he has put in more than 25 years of service with the Respondent Railways, he is entitled to avail two sets of Complimentary Passes per year and accordingly he is entitled to get the Passes issued from the respondents for the year 1997 also. The respondents having failed to issue the passes, he has approached this Tribunal to claim the aforesaid relief.

4. The respondents have contested this application by filing a written reply to which the applicant has also filed a rejoinder. It is the stand of the respondents that the applicant belongs to Christian Community and as such as per the Adoption Act, 1956 as amended upto 1990, a Christian cannot adopt any child under the Act and that the alleged adoption by the applicant is illegal and null and void. It is further the stand of the respondents that as per requirement in para 8(a) of Rule 63 of the Pass Manual, 1997 all retired employees except Class IV category have to furnish a declaration showing the particulars of their family, with sex and date of birth of children together with the employee's specimen signature or thumb impression duly attested by a Railway Gazetted Officer. It is averred

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that the applicant had submitted a declaration to the above effect regarding his family members on 6.9.1996 in which he has mentioned only the name of himself and his wife Smt. Phagwan Dass and has not mentioned the name and particulars of any child. The applicant further submitted applications to obtain Railway Passes on 6.9.1996 and 30.12.1996 (Annex.P/2) in which also he did not ask for issuance of any Complimentary Pass in favour of any child. It has accordingly been urged that in view of the declaration submitted by the applicant, the applicant is not entitled to get any Complimentary Passes issued for the year 1997 as asked for.

5. The applicant in his rejoinder has also stated that previously he was Hindu and now his new religion is Christianity and that Christian religion being liberal and tolerant allows him to enjoy his old custom of adoption and hence the adoption made by him of the girl is valid and that the respondents should be directed to issue the Railway Passes as asked for.

6. I have heard the learned counsel for the applicant and examined the record in great detail.

7. The only point for determination in this OA is "whether the applicant can ask for issuance of Complimentary Passes of Railways of the First Class for the year 1997 in favour of himself, his wife and his adopted daughter?"

8. It has been argued by the learned counsel for the

applicant that the respondents having issued an Identity Card (Annex.A/3 photo copy) in favour of the applicant, his wife and his adopted daughter; after his retirement in pursuance of condition No. (xvii) in Schedule-IV dealing with Post-retirement Complimentary Passes annexed with the Railway Servants (Pass) Rules, 1986; the respondents now cannot deny issuance of Passes in favour of himself, his wife and his adopted daughter as indicated in the Identity Card. It has also been urged that the declaration submitted by the applicant is ineffectual in view of the Identity Card having been issued by the respondent railways.

9. I have given due consideration to the arguments advanced by the learned counsel for the applicant.

10. From a perusal of para 8(a) of Rule 63 of Pass Manual 1977, it is mandatory for the retired railway employee to furnish a declaration showing the particulars of their family members with sex and dates of birth of children and the employee's permanent residential address together with his specimen signatures or thumb impression duly attested by a Railway Gazetted Officer. Para 5 of the aforesaid Pass Manual lays down that Passes to retired employees will be issued subject to the conditions and restrictions applicable to Staff who are in service. Para 8(a) which is relevant reads as under:-

"8(a) The pass account of a retired employee will normally be maintained by the officer under whom he was serving at the time of his retirement. All retired employees (except Class IV employees) should be asked to give a declaration showing the particulars of their family members, with sex and dates of birth of children, and the employee's specimen signature or thumb impression duly attested by a Railway Gazetted Officer. These declarations should be kept on record for reference when employees apply for passes for

their family members."

11. Besides the above provision, the Railways have also issued a Circular letter No. E(W)78 PSS-1/18, dated 29.9.1980 which is printed in the Railway Servants (Pass) Rules, 1986 (A Reference Book published by Bahri Brothers Delhi in its Second Edition Reprinted with Amendments-1966). According to Para 3 of this Circular letter, the Ministry of Railways after consideration of the matter about the requirement of the periodicity to give declaration forms in respect of the family members eligible for Passes and PTOs; has directed that the period for calling these forms should not exceed five years. It has further been laid down that "it should also be ensured that the railway employee informs the Pass Issuing Authority as and when there is any change during the period of five years in the composition of his family and the declaration form already obtained should be up-dated."

Reading the two provisions made under the Pass Manual referred to above in para 5 and 8(a) of Rule 63 of the Pass Manual and the circular-letter dated 29.9.1980, it is abundantly clear that the retired employees have to be issued the Passes subject to the conditions and restrictions applicable to staff who are in service. It, therefore, cannot be said, as argued by the learned counsel for the applicant; that the circular letter dated 29.9.1980 referred to above is not applicable to the retired railway employees.

12. Moreover, in the present case the applicant has himself submitted a declaration on 6.9.1996 (Annexure 3) wherein he has disclosed the particulars of his family who

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are entitled for Complimentary Passes and that too of only himself and his wife. This declaration as at Annex. R/3 and placed by the respondents with their reply is duly attested by a Railway Gazetted Officer as provided under Para 8(a) of Rule 63 of the Pass Manual, 1977. .

13. In view of the above, there is no force in the arguments advanced on behalf of the applicant. The issue raised in this ^{O.A.} ~~OA~~ is answered in the negative. It may, however, be observed that the question about the validity of adoption of the girl by the applicant before his retirement being a Christian; cannot be examined in this Tribunal. The applicant can agitate this matter, if he so chooses, before an appropriate forum.

14. For all the aforesaid reasons, I do not find any merit in this OA. The applicant is not entitled to seek any relief as prayed for in this OA. The O.A. is, therefore, dismissed with no order as to costs.



(RATAN PRAKASH)

JUDICIAL MEMBER