

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 16/01/2001

OA No.216/99

Laxman Singh s/o Shri Prem Singh r/o Ghatton-ke-Bera, Talyanipura,
Ajmer.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway,
Churchgate, Mumbai.
2. The Dy. Store Controller, Western Railway, Ajmer.

.. Respondents

Applicant present in person

Mr.U.D.Sharma, counsel for respondents

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagareth Administrative Member

Order

Per Hon'ble Mr. S.K.AGARWAL, Judicial Member

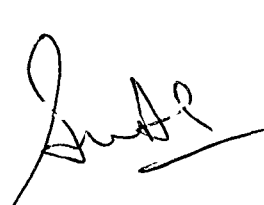
In this application filed under Section 19 of the Administrative Tribunals Act, prayer of the applicant is to quash and set-aside the order dated 15.10.1998 issued by the respondents and to direct the respondents to consider the applicant for appointment on compassionate grounds.

2. The case of the applicant is that Shri Prem Singh alias Preme Ji Pawat who was working as Khallas (Special) in the office of Deputy Controller Stores, Department of Railways, Ajmer died on 25.11.1997 and after the death of her husband Smt. Dhanvi Devi, widow of late Shri Prem Singh made an application for appointment of her adopted son Shri Laxman Singh on compassionate grounds. It is stated that applicant was adopted by late Shri Prem Singh on 2.5.1976 (Samvat 2033). It is further stated that after making application respondents No.2 advised Smt. Dhanvi Devi to get the

: 2 :

adoption deed registered. Therefore, the adoption deed was registered before the Sub-Registrar, Ajmer on 6.1.1998. It is also stated that a suit for declaring and permanent injunction was also filed by the applicant before the Court of Civil Judge (Jr. Division) and Judicial Magistrate, Ajmer District, Ajmer and in that Civil Suit No. 80/98 the Civil Court passed a decree in favour of the applicant holding that the applicant is the adopted son of late Shri Prem Singh and the said adoption was taken place on Akshya Tritiya Sawat 2033. It is stated that as the applicant was taken in adoption in the year 1976, therefore, respondents Department should not have refused the appointment of the applicant on compassionate grounds stating that applicant was adopted after the death of Shri Prem Singh Rawat. Therefore, applicant filed this OA for the reliefs as above.

3. Reply was filed. In the reply it is stated that applicant was not adopted son of late Shri Prem Singh. It is stated that applicant was not adopted prior to the death of late Shri Prem Singh and he was adopted by Smt. Dhanni Devi, widow of Shri Prem Singh only on 6.1.1998 i.e. after the death of Shri Prem Singh on 25.11.1997 which is evident from adoption deed executed on 6.1.1998. It is stated that no authentic copy of the order passed by the Civil Judge and Judicial Magistrate, First Class, Ajmer was placed on record and even on the basis of Ann.A4, the applicant cannot be said to be adopted son of late Shri Prem Singh. It is also stated that Smt. Dhanni Devi, wife of late Shri Prem Singh has adopted the applicant on 6.1.1998 after the death of Shri Prem Singh Rawat. Therefore, the applicant is not entitled to any relief sought for.



4. Heard the learned counsel for the parties and also perused the whole record.

: 3 :

5. The candidature of the applicant for consideration for appointment on compassionate grounds was rejected only on the ground that applicant was taken in adoption by Smt. Dhanni Devi, widow of late Shri Prem Singh after the death of Shri Prem Singh on 25.11.1997 but this fact does not appear to be a truth. On perusal of adoption deed as referred to above, it appears that this adoption deed was registered before the Sub-Registrar, Ajmer on 6.1.1998. It also appears that a hundred rupees non-judicial stamp was purchased on 5.1.1998 by Smt. Dhanni Devi, widow of Shri Prem Singh and on 6th of January, 1998 the adoption deed was registered before the Sub Registrar, Ajmer. But on reading out the contents of this adoption deed, it appears that Shri Laxman Singh Rawat, the applicant, was born on 8.11.1971 and he was given in adoption by his father to Shri Prem Singh Pawat alia Preme when he was 5-6 years old and at the time of adoption ceremony all respected citizens of the village, near relatives and friends were also present. It also appears that the said adoption deed was executed by Smt. Dhanni Devi and Shri Ugam Singh, father of the adopted son and mother of the adopted son Smt. Mevi as a proof of adoption made when Shri Laxman Singh was only 5-6 years old. This adoption deed does not lay down the fact that the applicant was adopted on the date of execution of adoption deed i.e. 6.1.1998 but it clearly mentions that applicant Shri Laxman Singh was adopted by Shri Prem Singh (deceased) when Shri Laxman Singh was only 5-6 years old.

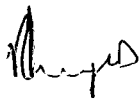
6. Shri Laxman Singh has also produced a copy of the decree passed by Civil Judge (JD) and Judicial Magistrate, Ajmer District, Ajmer in a Civil Suit No.80/98. We have seen the certified copy of the suit passed by the Civil Court which was available with the applicant that decree indicated that the applicant filed Civil Suit No.80/98 for declaration that applicant is adopted son of Shri Prem Singh alia Preme and Smt. Dhanni and to restrain respondents not to

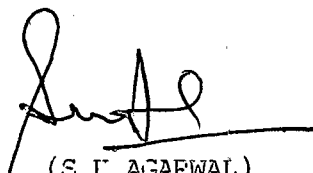


evict the applicant from the property belonging to late Shri Prem Singh. This suit was decreed on the basis of compromise and a compromise decree was passed by the Civil Judge (JD) and Judicial Magistrate, First Class, Ajmer District, Ajmer on 10.8.1998 declaring that applicant is adopted son of Preme alia Prem Singh s/o Shri Lalji Rawat resident of Kalyanipura, Ajmer who was adopted by late Shri Prem Singh on Akshya Tritiya, Samvat 2033 as per the customs prevalent in the society but it appear that respondent No.2 did not take notice of this decree of Civil Court which is a conclusive proof in this regard. Once the Civil Court has declared that a particular person is adopted son or a particular person was adopted in accordance with the social customs by x-y, the Department has no right/discretion to refuse consideration of the candidature of the applicant merely on the ground that applicant is not the adopted son of x-y.

7. As there is decree of Civil Court passed in Civil Suit No.80/98 in favour of the applicant declaring the applicant as adopted son of late Shri Preme alia Prem Singh, therefore, we are of the considered opinion that there is no ground to reject the candidature of the applicant for appointment on compassionate grounds on account of death of his adoptive father Shri Prem Singh.

8. We, therefore, allow this Original Application and quash the order dated 15.10.1998 (Ann.A2) and direct the respondents to consider the candidature of the applicant as adopted son of late Shri Premaji alias Prem Singh s/o Lal ji Rawat resident of Kalyanipura, Tehsil Ajmer for appointment on compassionate grounds within the period of three months from the date of the receipt of copy of the order. No order as to costs.


(A.P.NAGFATH)
Adm. Member


(S.K.AGARWAL)
Judl.Member