

Central Administrative Tribunal
Jabalpur Bench

OA No.1006/04

Jabalpur, this the 25th day of May, 2005.

C O R A M

Hon'ble Mr.Madan Mohan, Judicial Member

Bhole Shankar
S/o Amir Das
R/o Village Chorapath
Tahsil Gangatola
Keolari
Distt. Seoni (M.P.)

Applicant

(By advocate Shri M.R.Chandra)

Versus

1. Union of India through
General Manager
South East Central Railway
Bilaspur (CG).
2. Divisional Railway Manager
S.E.C.Railway, Nagpur.
3. Divisional Personnel officer
S.E.C.Railway
Nagpur. Respondents.

(By advocate Shri Atul Choudhary on behalf of
Shri S.S.Gupta)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks a direction to the respondents to consider the applicant for any suitable group 'D' post in the Railway.



2. The brief facts of the case are that the applicant is the adopted son of Sri Amir Das who died in harness on 18.10.99 while working as Gangman under Permanent Way Inspector, Seoni. The deceased executed a Will dated 9th June 1997 in favour of the applicant, authorizing the Railway authority to give all his balance dues, pension etc. The only married daughter of the deceased Government servant also furnished a sworn affidavit to DRM, Nagpur on 17.1.03 for making payment of all retiral dues of her father to her and the applicant in the ratio of 50/50 as per decision of Seoni Civil Court and payment of pension and compassionate appointment in favour of the applicant. The applicant was already paid an amount of Rs.43921 i.e. 50% of retiral dues on 3.11.03 and Rs.8394 as family pension on 24.10.2003. The applicant studied upto Class VII and his date of birth is 1.1.1975. The Railway authority got the Declaration Form for employment on compassionate ground on Group D post on 10.1.04 duly attested by Assistant Engineer, S.E.Railway, Chhindwara. However, the authorities are delaying the employment assistance on compassionate ground to the applicant on one pretext or other. The application form in prescribed form submitted by the applicant Annexure A7 is pending before the Railway Authority. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the respondents have themselves admitted in para 8 of the reply that the payment of settlement dues of the deceased employee was made to the applicant and the married daughter as per succession certificate issued by 1st Civil Judge Class I Seoni dated 17.1.03. Now the respondents are disputing the adoption of the applicant by the deceased employee while the applicant has filed a document marked as Annexure A3 dated 19th March 1990 in which it is mentioned that the natural mother of the applicant had given him in adoption to late Amir Das whose wife had already died and the natural mother of the applicant had also died. Hence the adoption was valid.



Apart from this, late Amir Das had executed a Will in favour of the applicant on 9.6.97. According to this Will Deed, the applicant is entitled for the reliefs claimed.

4. In reply, learned counsel for the respondents argued that in para 8 of the reply that the payment of settlement dues of the deceased employee was made to the applicant and the married daughter as per succession certificate issued by 1st Civil Judge Class I Seoni dated 17.1.03. My attention is drawn towards the Hindu Adoption & Maintenance Act, 1956. As per Section 10 of the said Act, the age of the child who is given in adoption should not exceed 15 years. The date of birth of the applicant, as admitted by him, is 1.1.75 while according to him, the adoption was executed on 19.3.90 i.e. after 15 years. Hence on that date, the applicant was not eligible for being given in adoption. Learned counsel further argued that in the alleged Will Deed, the applicant is not mentioned as adopted son but it is mentioned that the natural father of the applicant is Amir Das and in this Deed it is also clearly mentioned that the applicant is the son of his (Amir Das) younger brother. So by this Will Deed, late Amir Das did not accept the applicant as the adopted son.

5. Learned counsel for the applicant has submitted that as per Section 10 of Hindu Adoption & Maintenance Act, the age of 15 years can be relaxed.

6. After hearing the learned counsel for both parties and perusing the records, I find that the applicant was more than 15 years of age on 19th March 1990 when he was taken in adoption by late Amir Das. Learned counsel of the applicant has argued that according to the prevalent customs, the age limit of the applicant may be relaxed. I have perused the alleged Will Deed dated 9th June 1997. The representation of the applicant has not been decided so far by the respondents. Therefore, the respondents are directed to consider and



decide the representation of the applicant within three months from the date of receipt of a copy of this order, in view of the observations made. No costs.


(Madan Mohan)
Judicial Member

aa.

पूर्णकाल सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि दर्जे दिया:-
(1) सवित्रा, उमा विलाल, देवी दाम, जबलपुर
(2) अमरेश, देवी दाम, जबलपुर के काउंसल
(3) प्रद्युम्नी, देवी दाम, जबलपुर के काउंसल
(4) विद्यालय, देवी दाम, जबलपुर सूचना हरे अलाराट, जबलपुर देवी दाम
सूचना हरे अलाराट, जबलपुर देवी दाम

M. R. Chandra B20038
S. C. Gupta B20030

Issued
31/05/09
or