

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No.83/2004

Bilaspur, this the 11th day of May 2005.

CORAM

Hon'ble Mr .M.P.Singh, vice Chairman
Hon'ble Mr .A.K.Bhatnagar, Judicial Member

D.venkat Rao
S/o late D.Rajulu
R/o 243, Old North Dak
Bungalow, Bhilai Nagar
Dist.Durg (CG)

Applicant.

(By advocate None)

versus

1. Union of India through
Chairman, Railway Board
Rail Bhawan, New Delhi.

2. General Manager
South Eastern Railway
11, Garden Reach Road
Kolkata.

3. Divisional Railway Manager
South Eastern Railway
Bilaspur.

Respondents.

(By advocate Shri H.B.Shrivastava)

O R D E R (oral)

By M.P.Singh, vice Chairman

By filing this OA, the applicant has claimed the following reliefs:

- (i) Direct the respondents to consider the applicant's claim for grant of compassionate appointment.
- (ii) Direct the respondents to give all consequential benefits to the applicant as per rule.

2. The brief facts of the case are that the applicant is the adopted son of D.Rajulu who died in harness while working as Fitter Grade III, on 5.6.93. After the death of D.Rajulu, the applicant submitted an application for grant of compassionate appointment. According to the applicant, he was adopted by the deceased government servant according

to customs in childhood and an affidavit of adoption was submitted by him before the railway department in the year 1982. Based on the affidavit, the applicant was getting all benefits including medical reimbursement, medical treatment in railway hospital and pass PTO's. It is also stated by the applicant that the adoption was got registered by the mother of the applicant, Smt. Datta Chittamma, wife of the deceased on 13.7.93 as per the provisions of Indian Registration Act. Since the respondents have not considered the compassionate appointment of the applicant, he has filed this OA.

3. None for the applicant. Hence the provision of Rule 15 of CAT (Procedure) Rule 1987 is invoked.

4. Respondents in their reply statement have stated that the applicant is claiming himself to be the adopted son of late Shri D.Rajulu who was working with the respondent railways and who died on 5.6.93. The widow of late D.Rajulu applied in the year 1998 for compassionate appointment of the adopted son. The applicant as well as the widow were advised vide Annexure A4 that the adoption deed is not valid as per the provisions of the Hindu Adoption Act and her request for compassionate appointment for her adopted son was regretted. She was, however, given liberty to apply for herself within 5 years of the death of the deceased railway employee. The widow did not challenge the orders passed by the respondents. As regards the affidavit submitted by the ~~applicant~~ ^{deceased employee}, it is submitted that it was a self declaration for issue of passes etc. and further benefit cannot be claimed by such a declaration on affidavit except for the specific purpose for which the affidavit was given. The claim is otherwise a belated one and has been raised after 11 years of the death of the deceased Railway servant and for this reason, the case is liable to dismissed.



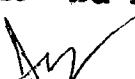
5. Heard the learned counsel for the respondents.

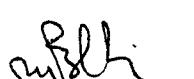
We find that the applicant is the adopted son of D.Rajulu who while working as Fitter Gr.II died in harness on 5.6.93. The widow of the deceased government servant as well as the applicant have applied for compassionate appointment of the present applicant in this case. The respondents vide their letter dated 23.4.98 had informed the widow of the deceased government servant that since the adoption deed is not valid as per the Hindu Adoption & Maintenance Act, 1956, compassionate appointment of the applicant cannot be considered by the competent authority. However, she was advised to apply for herself for appointment on compassionate grounds. However, she did not apply and the adopted son had applied. We find that as per the instructions issued by the Railway Board dated 20.5.88, an adopted son/daughter will also be eligible to be considered for appointment on compassionate grounds (in circumstances in which such compassionate appointment is permissible) in case all the following conditions are satisfied:

- (i) There is satisfactory proof of adoption valid legally.
- (ii) The adoption is legally recognised under the personal law governing the Railway servant.
- (iii) The legal adoption process has been completed and has become valid before the date of death/medical de-categorisation/medical incapacitation of the ex-employee.

In this case, we find that the deceased government servant died on 5.6.93 and the adoption deed has been executed on 13.7.93, i.e. after the death of the Government servant. Therefore, the request of the adopted son of the deceased government servant for compassionate appointment cannot be considered in terms of the instructions issued by the Railway Board dated 20.5.88.

6. For the reasons recorded above, the OA is is without any merit and is dismissed. No costs.


(A.K.Bhattacharya)
Judicial Member
aa.


(M.P.Singh)
vice Chairman