

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No.885/04

Jabalpur, this the 1<sup>st</sup> day of February, 2005.

Shankarlal Tiwari  
S/o Shambhoo Prasad Tiwari  
R/o Gali No.17, H.No.868 Sadar Bazar  
Jabalpur (M.P.)

Applicant

(By advocate Shri H.R.Bharti)

Versus

1. Union of India through  
The Secretary (Estt.)  
Railway Board, Rail Bhawan  
New Delhi.
2. General Manager  
West Central Railway  
Jabalpur.
3. Divisional Railway Manager  
West Central Railway  
Jabalpur.
4. Station Manager  
West Central Railway  
Damoh (M.P.)

Respondents

(By advocate Shri H.B.Shrivastava)

ORDER (oral)

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following main relief:

- (i) Direct the respondents to appoint the applicant against any appropriate post in grounds C or D as per his qualification and ability setting aside the impugned order dated 4.9.04 (Annexure A1).
2. The brief facts of the case are that the applicant's sister Smt.Laxmibai was serving as a 'water woman' at Damoh Railway Station



under respondent No.4. Smt.Laxmibai expired on 27.6.98. The applicant was solely dependent on late Smt.Laxmibai (Annexure A4). Late Smt.Laxmibai executed necessary nomination form in favour of the applicant for payment of PFGS and DCRG and accordingly, the settlement dues were paid to the applicant as per Annexure A7 & A8. The applicant who passed higher secondary examination, approached the respondent railways for his appointment on compassionate ground vide his application dated 30.3.99. Late Laxmibai also executed a Will on 23.6.98 that the applicant was brought up like her own son because she had no issues and that the applicant would be the only claimant of movable and immovable property. (Annexure A14). However, the request of the applicant for compassionate appointment was rejected vide impugned order dated 4.9.2004 (Annexure A1). Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the impugned order dated 4.9.2004 (Annexure A1) is passed without considering the contentions of the applicant while the respondents themselves had issued a certificate to the effect that late Smt.Laxmibai was residing in railway quarter and the applicant was also residing with her and the applicant was fully dependent on her. He further argued that the applicant was taken in adoption by late Smt.Laxmibai and she had also nominated the applicant for her moveable and immovable property and further she had executed a Will dated 23.6.98 (Annexure A14). The applicant is having the requisite qualification having passed the higher secondary, for appointment on compassionate grounds but the respondents have rejected the request without any justifiable ground.

4. In reply, the learned counsel for the respondents argued that the certificate issued by the Station Manager (Annexure A4) has no legal sanctity because he is not authorized to say that the applicant was fully dependent on deceased Smt.Laxmibai. He was living with her but that does not mean that he was a member of the family according to law. My attention is drawn towards Annexure R1 which is said to an Adoption



Deed which states that the deceased sister had taken him in adoption. The present age of the applicant is about 40 years. This letter Annexure R1 is dated 30.3.89. Apparently the applicant was more than 15 years at the time of the alleged adoption. According to the Hindu Adoption and Maintenance Act, no person beyond 15 years can be taken in adoption. Hence the adoption alleged by the applicant is not in accordance with law. The learned counsel further argued that on the basis of the alleged Will executed by late Laxmibai, it can only confer the entitlement of her moveable and immovable property but the applicant is not entitled for any compassionate appointment. Hence the impugned order passed is in accordance with law.

5. After hearing the learned counsel for both parties and careful perusal of the records, I find that the said adoption of the applicant by late Smt.Laxmibai is apparently ~~not in accordance with law~~. The applicant has not filed any ~~order~~ <sup>adoption deed</sup>. Simply he has filed a letter written by him addressed to DRM (Annexure R1) and secondly his age was more than 15 years which is the maximum age limit for adoption. The applicant is not covered within the definition of family of the deceased sister late Laxmibai. I have perused the certificate issued the Station Manager (Annexure A4. The certificate seems to be not relevant or sufficient according to law and according to the Will Deed, the applicant cannot claim compassionate appointment in the department of the respondents.

6. Considering all the facts and circumstances of the case, I am of the considered opinion that the OA has no merit. Accordingly, the OA is dismissed. No costs.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

य लिखित अत्रो विदितः—

- (1) सचिव, उच्च न्यायालय वार एड्योरिशियशन, जबलपुर  
 (2) आवेदक श्री/श्रीमती/कु.....के काउंसलर  
 (3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसलर  
 (4) वांछमान, कोष प्र. 1, जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

(Madan Mohan)  
 Judicial Member

M R Bhanu. H C JBP  
 Shri. M B Shrivastava. H C JBP.

MM  
 2-2-05

उप रजिस्ट्रार

Issued  
 on 2-2-05  
 BB