

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A. No.60/137/2017

Date of decision: 04.4.2018

(Reserved on: 12.03.2018)

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

Sh. Chhatarpal, aged about 37 years, S/o Late Sh. Jai Ram Saini, Village Daulatpur Maliyan, P.O. Saran via Dheen, Distt. Yamuna Nagar-133202, Class IV, Group 'C'.

**... APPLICANT
VERSUS**

1. Union of India through General Manager, Northern Railway, Ministry of Railways, Hqrs. Office, Baroda House, New Delhi.
2. Chief Material Manager, Northern Railway, Shakur Basti, New Delhi.
3. Deputy Chief Materials Manager, Northern Railway, Jagadhari Workshop, Jagadhari.

... RESPONDENTS

PRESENT: Sh. G.C. Shahpuri, counsel for the applicant.

Sh. G.S. Bal, Sr. Advocate, along with Sh. Rohit Sharma and Ms. L.K. Brar, counsel for the respondents.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. By means of present OA, the applicant assails order dated 27.12.2016 whereby his claim for appointment on compassionate grounds has been rejected.
2. Facts are not in dispute.
3. A conjunctive perusal of pleadings makes it clear that deceased Jai Ram Saini was working as Senior Khalasi (Workshop). He was not

having any issue. His wife unfortunately expired on 12.07.1992. After his wife's death, deceased Jai Ram Saini stated to have adopted the applicant on 24.02.1993, who is son of his brother Sumer Chand Saini. Adoption deed was also prepared on 24.02.1993. As per the averment, the name of the applicant was also included in ration card being family member of deceased employee. Said Jai Ram Saini unfortunately died on 06.09.2006 while he was in service. Immediately thereafter, the applicant stake his claim for release of payment of settlement of dues, but the same was denied. Consequently, he got succession certificate from Civil Court, Yamuna Nagar vide order dated 16.12.2008. Thereafter, applicant submitted representation for release of death cum retiral benefits being legal heir of deceased employee, which were released in his favour as well as one Sh. Deep Chand, son of Sumer Chand Saini, real brother of the applicant. Thereafter, applicant moved a representation for appointment on compassionate grounds being adopted son of deceased employee which has been rejected vide letter dated 11.05.2015. Even after rejection of his prayer, applicant submitted another representation followed by legal notice. When the same was not decided, he approached Civil Judge (Senior Division) Yamuna Nagar, by filing Suit for Mandatory Injunction directing the defendants to appoint the applicant therein on compassionate grounds as per Master Circular No.16 dated 12.12.1990. His suit was decreed by Civil Court vide order dated 01.10.2016, with a direction to respondents to consider and decide his claim. It is thereafter the respondents have again rejected his claim by passing impugned order. Hence the O.A.

4. The respondents have resisted the claim of the applicant by taking a preliminary objection that the OA is barred by limitation and on merit also, applicant has no case as he has failed to bring any document on record showing that he is validly adopted son of deceased Jai Ram Saini. It has been submitted therein that while granting succession certificate vide order and decree dated 16.12.2008, learned Civil Judge (Senior Division), Yamuna Nagar, has directed the respondents to release retiral benefits of deceased Jai Ram Saini to his legal heirs i.e. Chhatarpal, the present applicant and Deep Chand, his real brother. Thus, it is submitted that there is no finding recorded by Court of law that he is validly adopted son of deceased employee. Even the succession certificate does not talk that the applicant is adopted son of deceased employee. It has also been submitted that in subsequent suit filed for Mandatory Injunction, no finding has been returned by Civil Judge that he is adopted son of deceased Jai Ram Saini. Only direction was to consider his case, which they have considered and rejected vide impugned order.
5. I have heard learned counsel for respective parties.
6. Learned counsel for the applicant vehemently argued that once his claim for release of retiral benefits has already been accepted by the respondents, then they cannot be allowed to take summer-salt for his claim for appointment on compassionate grounds stating that there is no document showing that he is adopted son of deceased employee. To substantiate his argument, he submitted that once name of the applicant has been included in ration card and succession certificate has been issued by the competent authority

then ground taken by the respondents in impugned order rejecting his claim is bad in law and thus the same be set aside and direction be issued to them to appoint him forthwith.

7. Per contra, learned counsel for the respondents opposed prayer and raised a preliminary objection that petition be dismissed on the ground of delay and latches. He argued that the deceased employee died on 06.09.2006 and the applicant is seeking appointment almost after 10 years of his death thus, his claim under the said Scheme cannot be considered at this stage as per various judicial pronouncements.
8. On merit, he argued that the applicant failed to produce any document showing that he is adopted son of deceased employee as his adoption deed has not been believed by the Court of law. He also argued that once he is adopted son of deceased employee then there is no requirement of making a will that too in the name of two nephews, the applicant as well as Deep Chand, who is real brother. Thus, he argued that once no finding has been returned by Civil Court even while issuing succession certificate with regard to his adoption then his claim for appointment cannot be accepted because being legal heir, he has been granted succession certificate qua retiral benefits only and there is no whisper with regard to his claim for appointment on compassionate grounds. He also argued that as per statement, the applicant was adopted in the year 1993 whereas in his 10th certificate name of his biological father is there, thus whole story is fabricated and false only to secure appointment. Thus, he prayed that the OA be dismissed.

9. I have given my thoughtful consideration to the entire matter and of the view that though the applicant is having adoption deed but neither it is registered nor it is indicated when it was signed. It creates doubt that after adoption deed the deceased employee has also subscribed a will in which he decided to give his estate to his two nephews including the applicant. Once applicant has already been adopted then there is no need for the deceased employee to refer applicant as nephew. Even while getting succession certificate, the Court while returning finding ordered that the estate of deceased employee be given to petitioners i.e. Chhatarpal and Deep Chand, the legal heirs of Sh. Jai Ram Saini. Even in the subsequent suit for Mandatory Injunction, the applicant failed to establish before Court of law or able to return finding in his favour that he is adopted son of deceased employee. The only direction was to consider his claim in the light of rule formation. Respondents have rejected his claim by considering that he is not legally adopted son of deceased employee to which the applicant has not been able to place on record any document contrary to view taken by the respondents in the impugned order. Moreover, deceased employee died in the year 2006 and applicant submitted his claim in the year 2015 i.e. almost 9 years from date of death of deceased employee. It is settled proposition of law that compassionate appointment cannot be claimed as a matter of right. Compassionate appointment is a Scheme introduced by Govt. of India for giving financial assistance to wards of employee who die in harness while in service. It is an appointment to meet harness situation on demise of person supporting entire family. In normal course, such harness is beyond

emotional system as appointment on compassionate ground is in deviation of normal recruitment process where people are waiting in queue indefinitely, and thus, cannot be extended for indefinite period. If applicant has been able to survive for 9 years, then he cannot claim appointment on compassionate grounds at this stage.

10. Accordingly, I do not find any illegality in the impugned order. The OA being devoid of any merit is dismissed.

**(SANJEEV KAUSHIK)
MEMBER (J)**

Date:

Place: Chandigarh.

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