

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/960/2017**

Jabalpur, this Tuesday, the 19<sup>th</sup> day of December, 2017

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER**  
**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Ayush Kumar, aged about 06 years, Father Name – Yogendra Kumar, Mother Name – Late Subhadra Devi through its Guardian Ugrasen Kumar, S/o Late Ramchalitar, aged about 40 years, R/o Vill-Patuana, Post & P.S. – Bihar Sarif, Distt. Nalanda (Bihar).

**-Applicant**

(By Advocate – Shri R.S. Tripathi)

**V e r s u s**

1. Union of India through its General Manager, West Central Railway, Indira Market, Jabalpur (M.P.) – 482001.

2. Divisional Railway Manager (Personnel), Western Central Railways, Indira Market, Jabalpur – 482001.

3. Yogendra Kumar, S/o Late Shri Saryug Prasad, Assistant Loco Pilot, Western Central Railway, Jabalpur (M.P.)

**- Respondents**

**O R D E R**

**By Ramesh Singh Thakur, JM.**

This Original Application has been filed by the applicant (six years old) through its guardian for entering the name of applicant in the service record of respondent No.3.

2. It has been submitted by the applicant that respondent No.3, Yogendra Kumar is posted as Assistant Loco Pilot under the

respondent department. The respondent No.3 had submitted his Bio-Data, wherein he has declared himself as unmarried. But in fact, the respondent No.3 was married to late Smt. Subhadra Devi and with their wedlock, the applicant was born. After the death of her mother, the applicant shifted to matrimonial house of his mother. He seeks following reliefs in this O.A:

*“8.1 This Hon’ble Tribunal kindly be pleased to direct/order the respondents No.01 and 02 to entered the name of the applicant in service record of the respondent No.03 as 1<sup>st</sup> dependant.*

*8.2 Further the respondents No.01 & 02 may kindly be directed on retirement/death of respondent No.03, retiral dues should be paid in equal to the applicant as per his entitlement.*

*8.3 Any other order/relief which this Hon’ble Tribunal deem fit and proper in the facts and circumstances of the case, in favour of the applicant be also granted.*

*8.4 Costs of the applicant be also granted.”*

**3.** Brief facts of the case, as stated in the O.A, are that the applicant claims that his name be entered as dependent of respondent No.3 in his service record. It is submitted that respondent No.3 is a married person and he had married with late Subhadra Devi on 11.07.2008 (Annexure A-1). Smt. Subhadra Devi died on 09.06.2012 in a burn case, which according to the applicant, was committed by respondent No.3. An FIR was registered in the Police Station Sare, Distt. Nalanda against the

respondent No.3 and the respondent No.3 was arrested by the Police and a criminal case No.55/2012 under Section 498-A read with section 304-B/34 of Indian Penal Code was registered against the respondent No.3. Thereafter, the Police submitted *challan* before the Chief Judicial Magistrate, Nalanda, wherein he was charge sheeted and registered a Criminal Case No.82/2013. It is further submitted that the case mutated for session trial and registered Session Trial No.68/2014, which is still pending.

4. Learned counsel for the applicant submits that the respondent No.3 had entered into the service of respondents Nos.1 & 2 in the year 2011 and is working as Assistant Loco Pilot at West Central Railway, Jabalpur. The respondent No.3, in his declaration form (Bio-Data) (Annexure A-3) had mentioned that he is still unmarried, which is totally false and baseless. In fact the respondent No.3 had married with Subhadra Devi and from their wedlock, there is one son Ayush Kumar (applicant). It is also submitted that the applicant is son of respondent No.3 and being a legal son, the respondent No.3 should have mentioned the name of applicant in the service record of respondent No.3. But the same has not been entered in his service record. The guardian of the applicant Shri Ugrasen Kumar has submitted complaint to

respondents Nos.1 & 2 vide Annexure A-5 regarding the false information furnished to the department by respondent No.3. He has also furnished the affidavit regarding the marriage of respondent No.3 with minor girl Khusbu Kumari, aged near about 16 years and 06 months at the time of marriage. But no action has been taken by the respondents

**5.** The main grievance of the applicant in this Original Application is that respondent No.3 has given the wrong information while entering into the service. A criminal case No.498-A read with Section 306-B/34 is pending for trial before the Sessions Court. The applicant claims that he is the legal son of respondent No.3 and respondent No.3 has failed to mention his name as dependent in the service record. It is submitted that due to this, the applicant will not be entitled to get any benefit arising out of service benefit of respondent No.3.

**6.** It is pertinent to mention that a representation/complaint dated 11.06.2014 was made by Shri Ugrasen Kumar requesting the respondent department to take action against the respondent No.3. A similar application has been made to the respondent department regarding the marriage of respondent No.3 with Khushbu Kumari

stating the she was minor at the time of marriage with respondent No.3. So far as the name of applicant for entering in the service record of respondent No.3 is concerned, no such request has been made by the guardian of the applicant. Thus, it is clear from the record that no documents have been placed before us regarding making of representation against which the applicant is seeking relief. Therefore, we are of the opinion that this O.A is not maintainable at this stage, as the applicant has not exhausted the remedy available to him before approaching this Tribunal.

7. Accordingly, the O.A is dismissed *in limine*. However, the applicant is at liberty to make detailed representation to the department in regard to redressal of his grievance raised in this O.A, if advised so.

**(Ramesh Singh Thakur)**  
**Judicial Member**

**(Navin Tandon)**  
**Administrative Member**

am/-