

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/00300/2018

Date of CAV : 19-09-2018
Date of Order : 04-10-2018

Between :

Mr.S. Yageswara Phani, aged 27 years,
S/o late S.Padmaja (Ex-Sr.TypistS.C.Railway), Gr 'C',
Occ : Un-employed, Res: H.No.16-11-409/1/1,
Moosaram Bagh, Hyderabad,
Hyderabad District, Telangana State.Applicant

AND

UOI rep by its,

1. The General Manager,
South Central Railway,
Secunderabad.
2. The Chief Personnel Officer,
4th Floor, Rail Nilyam, S.C.Railway,
Secunderabad.
3. The Chief Operating Manager,
2nd Floor Railnilayam, S.C.Railway,
Secunderabad.Respondents

Counsel for the Applicant: Mr. G.Pavana Murthy

Counsel for the Respondents : Mr.V.V.N.NarasimhamSC for Rly

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the A.T.Act, 1985, for the following relief :

“ It is humbly prayed that the Hon’ble Tribunal may be pleased to quash and set-aside the impugned R2 letter No.SCR/P-HQ/661/ONR, dated 12.05.2017 and direct the Respondent to release / sanction death benefits and other consequential benefits of late S. Padmaja to the applicant i.e S. Yageswara phani based on the legal heir declared by competent court of law in its order dated 21. Feb 2017 and pass such other order / orders as deem fit and proper in the interest of principles of natural justice”.

2. The brief facts of the case are that, the Smt. Padmaja was appointed in Railways under physically handicapped quota (Deaf and Dum) and attained the status of Sr. Typist and worked in the office of the 3rd Respondent till her death. She expired during the course of employment on 10.07.2016. Smt. Padmaja during her life time, married Mr. A. Srinivas (a divorce with two children) a private employee in the year 2003 and because of difference between them since 2008 , they both agreed for a mutual divorce and filed OP No.115/2008 for dissolution of marriage and the family court decreed the same by order dated 12.11.2011.

3. It is further averred in the application that, the deceased employee during her life time adopted the applicant herein also executed a will in favour of the applicant and declared that after her death, all rights are to be inherited in the name of the applicant. The deceased Railway employee, vide letter dated 5.3.2014 sought for removal of the names of existing family members in ID / family health card and other records and requested to include the applicant’s name as dependent son in all Railway records. The

applicant also requested the Respondents to consider the applicant as her adopted son and realise all death benefits and other consequential benefits. The Respondents, upon the request made by the applicant, directed the applicant to bring legal heir certificate of Smt. Padmaja from the competent authority. Thereafter the applicant filed OS No.2881/2016 and the same was disposed of vide order dated 21.02.2017 in favour of the applicant.

4. As the 2nd respondent failed to consider the judgment in OS No.2881 of 2016, rejected the applicant's request for settlement dues of the deceased Railway servant. Hence this application.

5. Respondents have filed reply statement stating that, the deceased Railway employee took divorce with her husband on 12.11.2011 vide OP No.115/2008 and the records with regard to the adoption of the applicant is also available in the Respondents office. Further, one Shri S.Vijaya Kumar, vide his letter dated 16.3.2017 after the death of Padmaja indicated that he was adopted by the deceased Railway employee. The Respondents also mentions that, a male who is above 15 years of age cannot be adopted as per Section 10 of Hindu Adoption and Maintenance Act, 1956. Smt.S.Padmaja, vide her representation dated 5.3.2014 requested to remove the name of her husband and his two children from the records and also submitted another letter regarding adoption of Mr.S.Y.Phani,in the said letter she also indicated that she was living with her parents.

6. It is further stated in the reply statement that, Aadhar Card of

Sreedhana Yugeswara Rao Phani (Mr.S.Y.Phani) shows Shri S.Venkateswara Rao as the name of natural guardian issued on 29.6.2011 after the alleged adoption date of 25.3.2010. Another fact remains that the applicant's father still claims S.Y.Phani as his son and the fact is concealed before the XIX Junior Civil Judge and resulted in miscarriage of justice. Fraud vitiates every solemn act and active concealment is tantamount to fraud.

7. The Respondents also stated that, there was another claim by one Shri Ch. Srinivasa Rao, aged about 51 years who claimed that he got married to Smt. S.Padmaja on 28.4.2012 at 10.45 hrs in her residence, after the divorce with Shri A.Srinivas @ Mangapathi and in support of his claim he also sent photographs of his marriage. Smt. S. Padmaja, Ex.Sr. Typist/COM/O/SC also submitted another application dated 5.3.2014 intimating that she adopted Shri Yugeswar Phani and declared him as legal heir. The name of the applicant was continuously included in the prescribed form in the GP 22 and in declaration for Pass/PTOs for the years upto 2015, submitted by Shri S.Venkateswara Rao, TEh.I/WPO/Offie, Workshop, Lallaguda, Secunderabad, the natural father of the applicant and elder brother to the deceased Railway employee. Hence the adoption said to have taken place on 25.3.2010 cannot be relied upon since the names of the applicant was continued as one of the family member of Shri Venkateswara Rao (elder brother of the deceased Railway employee). Accordingly the Respondents pray for dismissal of the O.A.

8. We have heard Mr.G.Pavana Murthy, learned counsel for the

applicant and Mr.V.V.N.Narasimham, learned Standing Counsel for Respondents.

9. The applicant claims to be an adopted son of late Smt.Padmaja. As per his claim he was adopted by her on 25.3.2010. Therefore as per his own claim he was about 20 years by that time. The judgment dated 21.2.2017 passed by the learned XIX Junior Civil Judge, City Civil Court, Hyderabad in OA No.2881/2016 do not show that there was any document or proof to show that there was any legal custom or cast custom for adoption of the applicant who was more than 15 years old by the date of adoption in question and therefore the Respondents have raised the legal plea regarding Section 10 of Hindu Adoption and Maintenance Act, 1956 in this regard. The judgment in question dated 21.2.2017 is not a judgment in rem. The Respondents were not made parties in the said case. Several objections have been raised by the Respondents in their reply affidavit with regard to the so called adoption by the deceased Railway employee. Those are being disputed question of facts, this Tribunal need not go into those matters and it will be just and proper to direct the Respondent No.1 to consider the claim of the applicant that he is the adopted son of deceased Railway employee after going through all relevant materials including the documents relied upon or any will deed executed by the deceased Railway employee, after affording due opportunities to the applicant as well as the other interested persons and pass a reasoned order in respect of his findings in accordance with law.

10. Accordingly the OA is allowed with the above directions. The 1st

Respondent to comply with the directions as given above by this Tribunal within a period of three months from the date of receipt of a copy of this order.

11. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 4th October, 2018.

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