

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**Original Application No.21/432/2018**

**Reserved on: 14.06.2019**

**Pronounced on: 18.06.2019**

Between:

J.M. Diana Mary, D/o. late A. Rose Mary,  
Aged about 19 years, Gr. D, Occ: Unemployed,  
R/o. Quarter No. B-6, NIMH Campus,  
Manovikas Nagar, Secunderabad – 500 009.

... Applicant

And

1. Union of India, Rep. by  
The General Manager,  
South Central Railway,  
Rail Nilayam, III Floor,  
Secunderabad – 500 071.
2. The Chief Workshop Manager,  
Lallaguda Workshops,  
South Central Railway,  
Lallaguda, Secunderabad – 500 017.
3. The Workshop Personnel Officer,  
Lallaguda Workshops,  
South Central Railway,  
Lallaguda, Secunderabad – 500 017.

... Respondents

Counsel for the Applicant      ...      Mrs.S. Anuradha

Counsel for the Respondents      ...      Mr.D. Madhava Reddy,  
SC for Rlys

***CORAM:***

***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

**ORDER**

*{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }*

2. OA is filed challenging the non grant of settlement dues.
3. Applicant's mother while working as Safaiwala in the respondents organisation passed away on 22.7.2017. Applicant, claiming that she is the adopted daughter of the deceased employee vide adoption deed dt. 31.07.2004, has represented on 24.7.2017, 15.9.2017 and 27.11.2017 to the respondents to provide compassionate recruitment, grant family pension and release terminal benefits, but of no avail. Aggrieved, applicant filed OA 201/2018, which was disposed directing the respondents to dispose of the representations made. Representations were disposed rejecting the request of the applicant. Hence, the OA.
4. Contentions of the applicant are that the deceased employee has represented to the respondents to enter the name of the applicant as her legal heir in the records and that it has been done. Action of the respondents in not granting family pension and terminal benefits is against Articles 14, 15, 16 and 21 of the Constitution.
5. Respondents oppose the contentions of the applicant in the reply statement by contending that the deceased employee has not entered any name of the family member in the Identity cum Medical card till her death on 22.7.2017. Applicant's mother was appointed in the respondents organisation on compassionate grounds and that in her application (Annexure R- 2) for compassionate appointment, she has indicated that

she has no children. Respondents are unaware of the adoption deed dt. 31.7.2004. Further, adoption is not permitted under Christian Personal Law and under foster care children can be taken under Guardians and Wards Act 1890. Applicant was accordingly informed in response to her representations and the direction of the Tribunal in OA 201/2018 on 2.3.2018. Applicant was advised to submit succession certificate from the competent court to provide relief sought since there is no record with the respondents to establish that applicant is the adopted daughter of the deceased employee.

6. Heard both the counsel and perused the documents placed on record.

7 (I) Applicant has submitted a nomination form for P.F., CGEGIS and DCRG, which was received by the respondents on 5.4.2017 wherein the name of the applicant has been shown as the legal daughter. Similarly, while taking the PRAN by the deceased employee under NPS, applicant was shown as the nominee. In other documents like letter to respondents on 12.7.2006 & 4.4.2017, Adoption Deed dtd. 31.7.2004, Baptism Certificate dt. 22.9.2007, Statement of the family members under Rule 75(15)(a) dated 29.01.2013, family declaration in Form No.11, Family members details given by the Dy. Tahsildar, Cooperative Society identity cum pass book, Adhar card, representation for revised family declaration dated 11.11.2016 etc. indicate that the deceased employee has adopted the applicant as her daughter. Respondents' contention is that in the medical identity card, the name of the applicant does not figure and that in their records the name of the applicant does

not figure. Respondents point out that at the time of making the application for compassionate appointment, family members details were not indicated. The name of the applicant has been shown as nominee for DCRG, PF, CGEGIS. The nomination form was attested by the Controlling Officer i.e. the Canteen Manager, Lalaguda Workshop, South Central Railway on 5.4.2017. However, in the letter written to the respondents on 12.07.2006 and other documents referred to above, deceased employee has also indicated Baby A. Alikhya Mary as one another daughter. Consequently, it is not clear as to who are all the family members of the deceased employee. Applicant has submitted an adoption deed claiming that she has been adopted by the deceased employee. If this be so, then the relationship of the deceased with Baby A. Alikhya Mary remains unexplained. Is she born to her or was she also adopted. The details are hazy and require detail examination by the competent authority. Respondents are also contesting the adoption deed by stating that Christian Personnel Law does not permit adoption. Moreover, there are certain records shown where the applicant name does not figure. The deceased employee is an illiterate and therefore, appears to have made many representations with differing details leading to the confusion in regard to the legal heir for receiving the benefits. Considering these facts, respondents have directed the applicant to produce the succession certificate from the competent court.

(II) In the case cited by the applicant adjudicated by the Hon'ble High Court of Judicature at Hyderabad in WP No.9581 of 2017 there was

clinching evidence to decide the issue, whereas there are many ifs and buts in the present case.

(III) Even in cases where nomination exists, Hon'ble Supreme Court has observed as under:

**i) *Shipra Sengupta v. Mridul Sengupta*, (2009) 10 SCC 680 :**

*“14. In Sarbati Devi this Court has laid down that a mere nomination does not have the effect of conferring to the nominee any beneficial interest in the amount payable under the life insurance policy, on death of the insurer. The nomination only indicates the hand which is authorised to receive the amount on payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession.*

*15. The appellant also placed reliance on the judgment of this Court in Vishin N. Khanchandani v. Vidya Lachmandas Khanchandani, wherein this Court held that:*

*“13. ... the law laid down by this Court in Sarbati Devi holds the field and is equally applicable to the **nominee becoming entitled to the payment** of the amount on account of National Savings Certificates received by him under Section 6 read with Section 7 of the Act **who in turn is liable to return the amount to those in whose favour the law creates a beneficial interest**, subject to the provisions of sub-section (2) of Section 8 of the Act.”*

*16. Learned counsel for the appellant also placed reliance on a Division Bench judgment of the Delhi High Court in Ashok Chand Aggarwala v. Delhi Admn. This case related to the Delhi Cooperative Societies Act. The High Court while following Sarbati Devi case held that it is well settled that **mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned. The nomination indicates the hand which is authorised to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the deceased, in accordance with the law of succession governing them.**”*

Therefore, it is explicit that mere nomination will not confer the beneficial interest of the applicant in regard to settlement benefits in question.

The essence of the judgment is that the law of succession decides the disbursement of the benefit. Hence, in view of the adoption deed being challenged, lack of clarity as to who are the family members of the deceased employee through the documents submitted, it is appropriate for a competent authority to go into the issue and decide the succession. This court does not have jurisdiction over such matters. The stand of the respondents to produce the succession certificate is fair and just.

(IV) Hence in view of the aforesaid circumstances, there is no scope for the Tribunal to intervene and hence the OA is dismissed with no order to costs.

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

Dated, the 18<sup>th</sup> day of June, 2019

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