



**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA**

OA No. 350/01382/2015

Date of Order: 08.09.2015

**Present:**

**The Hon'ble Mr. Justice G.Rajasuria, Judicial Member  
The Hon'ble Ms. Jaya Das Gupta, Administrative Member**

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Ajay Kumar Singh, son of Late Pratap Narayan Singh, aged about 45 years, working as Technician Gr. II office of the Senior Section Engineer, ELS/19, Chittaranjan Locomotive Works, Chittaranjan, Pin-713 331, West Bengal residing at Street No. 80, Quarter No. 2 B, Simjura, Chittaranjan, Dist. Burdwan, West Bengal, Pin-713 331

.....Applicant

For the Applicant: Mr. S.K.Datta, Counsel

-Versus-

1. The Union of India through the General Manager, Chittaranjan Locomotive Works, Chittaranjan Dist Burdwan, West Bengal, Pin- 713 331.
2. The Chief Personnel Officer, Chittaranjan Locomotive Works, Chittaranjan, Dist. Burdwan, West Bengal, Pin-713 331.
3. The Senior Electrical Engineer/EL Shop-19, Chittaranjan Locomotive Works, Chittaranjan Dist. Burdwan, West Bengal, Pin-713 331.
4. Mr.B.S.Meena, Assistant Electrical Engineer/ELA, Shop No. 19, Chittaranjan Locomotive Works, Chittaranjan, Dist. Burdwan, West Bengal, Pin-713 331.

.....Respondents

For the Respondents : Ms.C.Mukherjee, Counsel.

**ORDER**

**JUSTICE G.RAJASURIA, JM:**

Heard both at this admission stage itself.

2. This OA has been filed seeking the following reliefs:

"(a) An order directing the respondents to supply the documents as asked for by the applicant by his representation dated 20.2.2015 as intended to be relied upon by the applicant as defence documents which was sent by post but refused and returned on 19.8.2015 and shown at Annexure-A/2 and A/3 collectively as well as directing them to consider the representation dated 17.8.2015 before proceeding further with the inquiry as well as an order quashing and/or setting aside the order appointing the Presenting Officer dated 10.2.2015 and to issue a fresh order as per rules.

(b) An order directing the respondents to produce/cause production of all relevant records.

(c) Any order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. The learned counsel for the applicant placing reliance on the averments in the OA would pyramid his argument which could succinctly and precisely be set out thus

The applicant is the adopted son of the deceased railway employee namely Pratap Narayan Singh, who, while working under the Respondents, died in harness. Whereupon, on the request of the widow of Late P.N.Singh so to say the adopted mother of the applicant, appointment on compassionate ground was given to the applicant in the year 1988 as Tech. Gr. II in the railways. Subsequently, one natural cousin brother of the applicant racked up the matter by pointing out that the Revenue Administrative Officer vide order dated 16.6.2008 held in connection with some revenue matter that the applicant was not the adopted son of the deceased railway employee and that order was upheld by the Member (Judl.), Revenue Board, Lucknow vide order dated 26.02.2013. Whereupon, alone departmental proceeding was initiated as against the applicant by framing charges as though he got appointment illegally by posing himself as the adopted son of the deceased employee. However, in the meanwhile the applicant filed the Suit No. 1438 of 2012 before the Ld. Court of Civil Judge (Judicial), Sahagunj, Jaunpur for declaring his status as the adopted son of the deceased employee and the matter is still pending for adjudication. The learned Counsel for the applicant would further state that only the Ld. Civil Court is competent to decide the civil status of the applicant and the IO is not competent to decide on that and further more the Revenue Board was not

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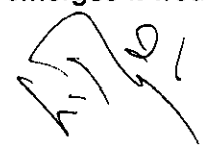
the final authority to adjudge on the civil status of the applicant. As such, as per him the enquiry proceeding initiated as against the applicant has to be quashed.

Per contra, the Learned counsel appearing for the Respondents would submit that since the Revenue Board finally adjudged as against the applicant that he was not the adopted son of the deceased employee, the disciplinary proceeding initiated cannot be found fault with. Furthermore it is trite law that the CAT cannot interfere with the pending disciplinary proceeding. Accordingly, she would pray for the dismissal of this OA.

4. The point for consideration is as to whether the IO in the departmental proceedings could adjudge the civil status of the applicant as to whether he is the adopted son of the deceased employee or not, simply based on the judgment of the Revenue Board.

5. The Trite law is that only the Civil Court is competent to hold whether a person is the adopted son of an individual or not, and no other authority could conclusively and finally decide on that issue. No doubt, the Railway authorities based on the findings of the Revenue Board initiated action. The fact remains that Civil Suit is pending in a competent civil court and it has got jurisdiction to decide on the civil status of the applicant. However, we could notice that the railway was not a party there. Our mind is reminiscent and redolent by the legal maxim "*Res inter alios judicatae nullum aliis praejudicium faciunt*" (matters adjudged in the law suits of others do not prejudice those who were not parties to them). It is for the applicant to implead the railway as one of the defendants and then only the judgment that would be passed by the civil court will be having binding effect on both side. As such we would like to pass the following direction:

6. The Applicant shall take urgent steps to implead the railway as one of the defendants in the pending Suit No. 1438 of 2012 and proceed with the suit as expeditiously as possible and it is for the railway authorities to participate in the proceeding in the suit and raise their objection, if any. Whereupon, the Ld. Civil Court would decide on the main issue as to whether the applicant is the adopted son of the deceased employee or not. Once the order emerges it would be binding



on both the parties, Subject to appeal over the civil court's decision and in the meanwhile, there would be no chance to proceed with the departmental proceeding. As such, till finality is achieved in the civil suit, the departmental proceedings shall be kept in abeyance.

7. This OA is accordingly disposed of. No costs.

(Jaya Das Gupta)  
Admn. Member

(Justice G.Rajasuria)  
Judicial Member

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