

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH,  
CAMP AT NAGPUR.

O.A.2195/2017

Dated this Wednesday the 18<sup>th</sup> day of September, 2019

Coram: Dr.Bhagwan Sahai, Member (Administrative).

1. Rahul Raviram Paunikar,  
S/o Shri Raviram Udaybhan Paunikar
2. Raviram Udaybhan Paunikar,  
S/o Udaybhan Paunikar,  
Ex.Khalasi under SSE (Works)  
Tumsar Road, S.E.C. Railway (Both),  
R/o New Khalasi Line J.N. Road,  
Kamptee, dist. Nagpur - 440 027. ..Applicants

( By Advocate Shri C.L. Deharia ).

Versus

1. Union of India, through  
its General Manager,  
S.E.C. Railway,  
Bilaspur C.G.-495004.
2. Divisional Railway Manager,  
S.E.C. Railway,  
Nagpur (M.H.)-440001. .. Respondents.

( By Advocate Shri Alok Upasani ).

Order reserved on : 21.08.2019

Order delivered on : 18.09.2019

O R D E R

This O.A. has been filed on 03.08.2017 by Shri Rahul Raviram Paunikar and Shri Raviram Udaybhan Paunikar, who worked as Khalasi under SSE (Works), Tumsar Road, South Eastern Central Railway, Kamptee, district Nagpur. They have sought quashing of the order dated 15.03.2016

rejecting their claim for providing employment on compassionate grounds to applicant no.1 after medical decategorization of applicant no.2 and direction to the respondents to extend that benefit to applicant no.1 along with cost of this O.A.

2. Summarized facts:

2(a). Shri Raviram Udaybhan Paunikar (applicant no.2) was appointed as Khalasi, a Group 'D' post on 29.06.1984 in Engineering Department of Nagpur Division of South Eastern Central Railway. It has been stated that he married in the year 1990 and had one daughter, but due to his mental illness diagnosed as Schizophrenia, his wife sought divorce from him which was effected on 02.10.1994 in presence of Caste Panchayat as per local customs prevalent with Bouddha rites. After the divorce, his daughter also went along with his wife.

2(b). Shri Rahul R. Paunikar (applicant no.1) was born on 04.06.1982 and he was adopted by applicant no.2 through a Notarized deed dated 04.05.1996 (Annex-A-2). The adoption deed was registered with office of Sub-Registrar, Kamptee (Annex-A-3). The adoption deed was accepted in the presence of caste members and head of his society and thereby applicant no.1 became the adopted son of applicant no.2. This adoption deed was sent to

the office which was also taken on record by the office of the respondents i.e. by Divisional Personnel Officer, South Eastern Central Railway, Nagpur on 18.02.2010. Change in the name of applicant no.1 on his adoption was also notified in Government of Maharashtra Gazette dated 25.03.2010.

**2 (c).** On medical examination, the applicant no.2 was declared fit in C-1 and below category from B-1 classification and was termed as decategorized as per letter dated 06.05.2010 issued by Chief Medical Superintendent, South Eastern Central Railway, Nagpur, although he was not declared as medically totally unfit for further service with the Railways (Annex-A-7). Hence the Screening Committee posted him for sedentary job after which the applicant no.2 sought voluntary retirement on 15.07.2010 so that his ward could be provided employment on compassionate grounds. His voluntary retirement was accepted on 28.12.2010 and his pension started from 29.12.2010.

**2 (d).** Thereafter he submitted another application for compassionate appointment to applicant no.1 on 10.12.2010. Then the Law Officer, South Eastern Central Railway, Bilaspur dated 12.10.2012 regretted the adoption deed submitted by applicant no.2 as it was without

consent of his wife (Annex-A-10). The Sr.Divisional Personnel Officer, South Eastern Central Railway, Nagpur communicated to the applicant no.2 on 14.12.2012 (Annex-A-11) that as per the view of the Law Officer, South Eastern Central Railway, Bilaspur, the adoption deed submitted by him was not in order for extending the benefit of compassionate appointment to applicant no.1.

**2 (e).** Aggrieved by this, the applicant filed O.A.2239/2014 on which vide order dated 23.11.2015, this Tribunal directed the respondents to consider a detailed representation to be made by the applicant therein and decide it as per law. Accordingly a representation was submitted by applicant no.2 dated 21.12.2015. Thereafter on 08.01.2016, Smt.Geeta, the estranged and divorced wife of applicant no.2 submitted a representation to the respondents stating therein that the applicant no.2 had falsely claimed divorce from her and adoption of the applicant no.1 which did not have her consent.

**2 (f).** The applicant no.2 has further claimed that based on her representation, the respondents wrongly concluded that he had not sought her consent for the divorce. But as per various rules,

sections of Hindu Marriage Act and Court decisions, her consent was not required as the divorce had already taken place in presence of Caste Panchayat members. Therefore, this O.A. has been filed.

**3. Contentions of the parties:**

The applicant in the O.A., rejoinder and during the arguments on 21.08.2019 has contended that -

**3(a).** in rejecting the claim of the applicant no.1 for an employment on compassionate grounds, the respondents have not appreciated the fact that the applicant no.2 had already obtained divorce from Smt.Geetabai as per the local customs in presence of Panchayat members, the custom of seeking divorce in presence of Panchayat members is still prevalent in his caste, the name of applicant no.1 was changed after his adoption by respondent no.2, based on which even the gazette notification was issued on 25.03.2010, and, therefore, seeking consent of his estranged wife for divorce was not required. The respondents should not have raised the objection about adoption of applicant no.1 by applicant no.2 and should have extended the benefit of employment on compassionate grounds after medical decategorization of applicant no.2;

**3(b)**. not providing of such employment to the applicant no.1 is discriminatory and violative of Articles 14 and 16 of the Constitution. Smt.Geetabai had sought divorce first in presence of members of Caste Panchayat before deserting the applicant no.2 and, therefore, the divorce with her was as per the prevailing customs;

**3(c)**. for providing employment on compassionate grounds, various circulars issued by the Railway Board dated 14.06.2006, 22.06.2006, 12.07.2006 and 21.11.2006 are relevant for agreeing to the request of applicant no.1 and, therefore, this O.A. should be allowed.

In their reply and during arguments the respondents have contended that -

**3(d)**. the applicant no.1 has claimed to be adopted son of applicant no.2 but no valid adoption deed has been brought on record except the invalid adoption deeds dated 04.05.1996 and 06.10.2007. The applicant no.2 was medically decategorized and offered sedentary job as per Clause 574 of the Indian Railway Medical Manual, 2000. However, he sought voluntary retirement which was accepted on 28.12.2010. Thus applicant no.2 retired voluntarily and received all the retiral benefits. Therefore, after his voluntary retirement on his

own choice, the benefit of appointment on compassionate grounds to his ward does not exist as per Railway Board Circular dated 18.01.2000 (Annex-R-1);

**3(e).** during inquiry conducted by the Sectional Welfare Inspector of the Railways, it was revealed that the applicant no.2 had married Smt.Geeta between 1992 and 1993 and after one year of marriage he deserted her and her whereabouts were not known;

**3(f).** on scrutiny of the adoption deed dated 04.05.1996 submitted by applicant no.2, the opinion of Sr.Law Officer of South Eastern Central Railway, Headquarters, Bilaspur was submitted on 12.10.2012 to the Sr. Divisional Personnel Officer, South Eastern Central Railway, Nagpur. Thereafter another adoption deed was executed by applicant no.2 on 08.10.2007. However, at that time age of the adoptee was more than 15 years because of which the adoption deed was invalid;

**3(g).** as per representation of Smt.Geeta dated 08.01.2016, the adoption deed in favour of applicant no.1 had been obtained without her consent and, therefore, it was not valid. Therefore, the O.A. should be dismissed.

4. Analysis and conclusions:

4(a). I have perused the O.A. along with its annexes, rejoinder, reply filed by the respondents as well as the arguments of counsel of both sides heard on 21.08.2019. Based on consideration and analysis of these, my conclusions are as follows:-

4(b). The main issue involved in the present O.A. is whether the applicant no.1 is a legally adopted son of applicant no.2 and thereby eligible for appointment on compassionate grounds after voluntary retirement of applicant no.2. The applicant no.2 worked as Khalasi with the respondents since 09.06.1984. As per the case record, the applicant no.2 was medically decategorized for C-1 category and below from B-1 from 06.05.2010 as per certificate issued by the Chief Medical Superintendent, South Eastern Central Railway, Nagpur (page 28-29 of OA). Then he sought voluntary retirement on 15.07.2010 (Annex-A-8), which was accepted on 28.12.2010.

4(c). The claim of divorce of the applicant no.2 with his wife Smt.Geeta is only a unilateral letter dated 02.10.1994 signed before two members of the Caste Panchayat. Similarly the adoption deed in favour of applicant no.1 claimed to be by mutual consent was notarized from 04.05.1996 but it was

registered only on 08.10.2007 and notified in the State Government gazette on 25.03.2010. Since Smt.Geeta in her representation dated 08.01.2016 objected to adoption of applicant no.1 by applicant no.2 as being without her consent, the respondents refused the application of applicant no.1 for employment on compassionate grounds on 14.12.2012.

**4(d).** Based on direction of the Tribunal in O.A.2239/2014 in its order dated 23.11.2015, the respondents considered the representation of applicant no.2 dated 21.12.2015 along with representation of Smt.Geeta dated 08.01.2016 and in view of false claim of applicant no.2 of divorce with her and of adoption of applicant no.1, the respondents have issued the impugned order dated 15.03.2016 (Annex-A-1). The impugned order has very clearly mentioned that the applicant no.2 submitted two adoption deeds and the second one was not even registered. This order is very detailed and reasoned one in which different stipulations under the law and various guidelines have been cited concluding that the adoption deed submitted by applicant no.2 in favour of applicant no.1 was not a legally valid adoption.

**4(e).** The case record also reveals that the claimed divorce with Smt.Geeta was also not a

lawfully obtained divorce, it is simply a unilateral letter signed before two Panchayat members which is not a decree of divorce issued by a competent Family Court. Therefore, the action taken by the respondents was fully justified, there is no infirmity in it.

4 (f). In view of the above facts, I find no merit in the O.A. It is totally devoid of merit and the applicants have unnecessarily indulged in wasteful litigation. Resultantly the O.A. deserves dismissal.

5. Decision:

The O.A. is dismissed. No costs.

(Dr. Bhagwan Sahai)  
Member (A).

H.

JD  
19/9/10