

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

Original Application No.20/789/2018

Date of Order: 24.10.2019

Between:

Annamaraju Manohara Rao
S/o A.V.Seshagiri Rao
Aged about 31 years, Occ: Unemployee
R/o Door No.1-51, OC Colony
Tartur Village, Jupadu Bangalo Mandal
Kurnool District
Andhra Pradesh State - 518401

.... Applicant

AND

1. The Union of India
Rep. by its under Secretary
Postal and Tele Communications Department,
Central Secretariat, Lodhi Road
New Delhi.
2. The Chief Post Master General
Andhra Pradesh Circle
Vijayawada-520013.
3. The Post Master General
Kurnool Region
Kurnool District.
4. The Postal Superintendent
Kurnool
Kurnool District
5. The Superintendent of Post Offices
Kurnool Division
Kurnool District.
6. The Inspector of Posts
Nandikotkur, Sub Division
Nandikotkur – 518401.

Counsel for the Applicant ... Mr. A.V.V.S.N.Murthy
Counsel for the Respondents ... Mr. P. Krishna, Addl. CGSC.

CORAM:**Hon'ble Mr. B.V. Sudhakar, Member (Admn.)****ORAL ORDER**

2. The OA has been filed for not considering the applicant for compassionate appointment.

3. Brief facts of the case are that the father of the applicant while working as Gramin Dak Sevak Branch Post Master (in short, GDSBPM), passed away on 31.07.2016 leaving behind his wife and the applicant. The applicant was adopted by the deceased employee vide adoption agreement on 17.06.2016, as he had no issues. Applicant further submits that he was given temporary appointment on contract Basis as GDSBPM and he worked upto the end of December 2017. Later, the aforesaid adoption agreement/deed was registered on 09.09.2016. With the said document, the mother as well as applicant represented to the respondents seeking appointment on compassionate grounds. The same was rejected on 04.12.2017, by the respondents on the ground that the registered deed of adoption dated 09.09.2016 furnished by the wife of the deceased GDS employee was executed after the death of the GDS employee. Against the same, applicant represented seeking for compassionate appointment but till date there is no response. Hence, the OA.

4. The contentions of the applicant are that the rejection of claim of applicant was on the ground that the previous date of oral adoption has no basis and is invalid as per Section 6 of the Hindu Adoption Act, 1956. Applicant cited the verdict of the Hon'ble High Court of in **V. Anjanyeulu v. Vadapalli Peddanna @ Peddaiah and others**, 2005 (4) ALT 674 in support of his cause. The deed of adoption need not be registered as per the Judgement of the Hon'ble High Court of Andhra Pradesh in **Gajula Rathanji v. Bopanna Veera Prabhavathi & Another**, 2007 (1) ALT 312. Once the adoption deed is registered, it can be presumed that the adoption made in compliance with the provisions of the Hindu Adoption and Maintenance Act, 1956. Besides, Sections 12 and 12(c) of the Act, also support the cause of the applicant. The family of the deceased employee is in penury and, therefore, there is genuine reason for protecting the family by considering the applicant for Compassionate Appointment.

5. Respondents have, in their reply statement, opposed the contentions of the applicant by stating that the deed of adoption was registered on 09.09.2016, after the death of the deceased employee, which occurred on 31.07.2016. Further, deceased employee did not intimate the respondents during his life time about the oral adoption made on 06.07.1997, as mentioned in their registered adoption deed.

As per the Scheme of Compassionate Appointment, the dependent family members is defined as one who was wholly dependent on the deceased employee at the time of his death. The applicant had worked as substitute BPM and as such no temporary appointment was given to the applicant. The respondents state that there is no such clause in Section 6 of the Hindu Adoptions and Maintenance Act, 1956 as stated by the applicant at para 5(b) of the OA. Incidentally, the SSC marks memo of the applicant issued in March, 2002 contains the name of the natural father Shri A. Jagdeeswara Rao and not the name of the deceased employee who is said to have adopted the applicant on 06.07.1997.

6. Heard both the counsel and perused the pleadings on record.
7. (I) The applicant is making a claim that he, being the adopted son of the deceased employee, respondents ought to have considered his case for Compassionate Appointment. In the respondents' letter dated 16.01.2013, which pertains to consolidated instructions on compassionate appointment, "Dependent Family Member" is defined as under:
 - (a) Spouse or
 - (b) Son (including adopted son) or
 - (c)daughter (including adopted daughter); or

- (d) brother or sister in the case of unmarried Government servant or
- (e) member of the Armed Forces referred to in (A) or (B) of this para,
 - who was wholly dependent on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be."

Thus, as per the said Rule the applicant is eligible to be considered, if he is to be adopted and was to be dependent on the deceased employee at the time of his death. Applicant has produced a registered adoption agreement which was signed by the deceased employee and his wife along with the parents of the applicant. Thereafter, the adoption was registered vide adoption deed executed on 09.09.2016. As per the said deed, the applicant was adopted on 06.07.1997, according to the rights and customs of Hindu religion, in the presence of elders and relatives. In this regard, Section 6 of the Hindu Adoptions and Maintenance Act, 1956 reads as under:

"6. Requisites of a valid adoption- No adoption shall be valid unless-

- (i) the person adopting has the capacity, and also the right, to take in adoption;
- (ii) the person giving in adoption has the capacity to do so;
- (iii) the person adopted is capable of being taken in adoption; and
- (iv) the adoption is made in compliance with the other conditions mentioned in this Chapter".

As seen from the above, the deceased employee has rightfully taken the adoption of the applicant as per the adoption agreement dated 17.6.2016 in compliance with the Section 6 of the Hindu Adoptions and Maintenance, Act, 1956. Besides, the decision in **V. Anjaneyulu**, referred to hereinbefore, states that an adoption deed need not be registered if the adoption is made in consonance with Section 6 of the Act.

(II) Further Section 16 of the Act, provides as under:

“16. Presumption as to registered documents relating to adopting.- Whenever any document registered under any law, for the time being in force, is produced before any Court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the Court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.”

(III) The applicant has submitted adoption agreement executed on 17.06.2016 duly signed by the adopted parents and natural parents. Therefore, this document would suffice to confirm that the applicant had been adopted by the deceased employee as per Section 16 of the Act, cited supra. Respondents have not produced any legally valid document, etc. to disprove the adoption.

(IV) Further Section 12 of the Act, provides as under:

“12. Effects of adoption:- An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with

effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family.”

The applicant is deemed to have been adopted from the date of adoption, i.e. 06.07.1997, stated in the adoption deed dated 09.09.2016. Consequently, his ties with the natural parents seize and he would be obviously dependent on the adopted parents. This answers the objection of the respondents, that the applicant was not dependent on the deceased employee at the time of his death.

(V) Further, Respondents have raised an objection that the name of the adopted father was not recorded in the SSC Certificate issued in March, 2002, though he was claimed to have been adopted in 1997. The deceased employee is from the lower rung of the respondents organization. Their legal knowledge is limited. Besides, he would not have been aware of the fact that his name has to be recorded in the SSC Certificate to confirm the adoption. In the present issue as per the Act, the pertinent documents to be looked into are the adoption agreement and the registered adoption deed. Both the deeds point towards the adoption of the applicant legally within the confines of the Hindu Adoptions Maintenance Act, 1956. At the most, the absence of the adopted father’s name in the SSC certificate needs to be construed as a procedural lapse. It is settled law that substantive justice must always

prevail over procedural or technical justice, as held by Hon'ble Supreme Court in **State Represented by Inspector of Police, Central Bureau of Investigation v. M. Subrahmanyam**, Criminal Appeal No.853 of 2019, dated 07.05.2019.

(VI) Therefore, in view of the facts stated above, the applicant has to be considered as the adopted son of the deceased employee. The Compassionate Appointment rules permit an adopted son to be considered for Compassionate Appointment. Respondents have not submitted any document claiming that the applicant was not dependent on the deceased employee at the time of his death. Thus, the facts and law cited supra, support the cause of the applicant fully.

(VII) Hence, the OA succeeds. Consequently, the respondents are directed to consider the case of the applicant for Compassionate Appointment, as per extant rules within a period of 3 months from the date of receipt of a copy of this order, by issuing a speaking and well reasoned order.

With the above directions, the OA is allowed with no order as to costs.

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

Dated, the 24th day of October, 2019

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