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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2903/2016**

ANITA KUMARI

..... Petitioner

Through Mr. S.B. Tripathi, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mr. J.K. Singh, Standing Counsel for
Railways & Mr. Praveen Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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05.04.2016

We have heard learned counsel for the petitioner, who submits that the Railways should have replied to late Maikoo's letter dated 26th September, 2011, appointing the petitioner Anita Kumari as his nominee. It is submitted that the tribunal has wrongly observed that the said letter appears to be a fabricated document.

2. The impugned order dated 7th March, 2016 dismisses OA No. 846/2016 filed by the petitioner praying for the following reliefs:-

“a) Direct the respondents to release the entire service benefits of Late Sh. Maikoo in favour of the applicant.

b) Direct the respondents to release the salary of Late Sh. Maikoo for the period September 2011 and October 2011 in favour of the applicant.

c) Pass any other decree and/or orders that may be deemed fit by this Hon'ble Court.”

3. It is an admitted position that late Maikoo had died while in service on 10th October, 2011. He was a widower and did not have any issue. It appears that late Maikoo was residing with his sister Agni Devi, grandmother of the present petitioner. The petitioner claims that she was orally adopted by Maikoo, when she was very young. This fact is denied by the respondent-Railways. Keeping in view the claim made by the petitioner, Railways had asked one of their officers, Mr. Deepak Vats to visit the residence of late Maikoo and submit a settlement report. As per report dated 24th September, 2012, late Maikoo used to live in a joint family. The family members/relatives had given one adoption deed dated 29th March, 2010 to Mr. Deepak Vats. As per the deed, late Maikoo had adopted a male child called Shekhar, son of maternal uncle of Maikoo. Date of birth of said Shekhar is 16th May, 1997, i.e., he was a minor at the time the report was given.

4. Grandmother of the present petitioner had filed probate proceedings, but they were withdrawn as per order dated 18th January, 2016. The said order records that Ram Naresh, natural father of master Shekhar, had filed objections in the said probate petition.

5. Looking at the factual background, it will be appropriate and proper

for the petitioner to establish her claim as a legal heir in accordance with law.

6. We have also examined the findings recorded by the tribunal in paragraph 4.2. We agree that there is a civil dispute regarding the legacy. The petitioner, who claims to be related to late Maikoo, should first establish her claim in the civil court before she can claim any amount. We have also noticed that the petitioner relies upon letter dated 26th September, 2011 purportedly written by late Maikoo, about fifteen days before his death. Further, the adoption deed of master Shekhar, it is also noticeable, is dated 29th March, 2010, about six months prior to death of Maikoo. The aforesaid dates reflect the *inter se* dispute between family members of late Maikoo. We would only clarify that the adverse observations made by the tribunal are *prima facie* observations and should not be treated as final and conclusive finding, which would adversely affect the petitioner in the civil proceedings.

7. In view of the aforesaid discussion, we do not find any merit in the present writ petition and the same is dismissed.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

**APRIL 05, 2016
VKR**