

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13279 of 2014

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Arun Kumar Son of Late Rajeshwar Pandit Resident of Mohalla - S.C.E.R.T.
Campus, P.O. - Mahendru , P.S. Sultanganj, District - Patna

.... **Petitioner**

Versus

1. The State of Bihar through the Principal Secretary Education Department, Govt. of Bihar, Patna.
 2. The Director, State Council of Educational Research & Training Mahendru, Patna - 800006.
 3. The Deputy Director, State Council of Educational Research & Training, Mahendru, Patna - 800006.
- **Respondents**
- =====

Appearance :

For the Petitioner : Mr. Suraj Narain Yadav, Advocate and
Mr. Umesh Prasad, Advocate

For the Respondents : Mr. S.K.Kumar, AC to GA 8

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 14-08-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner is adopted son of the deceased Class IV
employee. His claim for appointment has been rejected on the
ground that there is no valid adoption. Learned counsel appearing
on behalf of the petitioner has relied upon a Division Bench
judgment of this Court in the case of *Union of India & Others –*
Versus- Most Shitali Devi & Another, 2002 (4) PLJR 62. He
submits that the law with regard to consideration of claim for
compassionate appointment by adopted son has been considered by
the Division Bench of this Court in the said judgment.

3. The relevant paragraph is being reproduced herein



below:-

“...4.The Court is of the view that this matter should not be made an issue and the logic of a regulation is not going to solve any human problem. If the employees, who are being considered, are class IV employees then regard being had to the realities it is unlikely that in that strata of the society issueless couples go through the formality of the law and make an adoption and have it duly registered. This is a common law concept. An oriental society such as ours containing an amalgam of many cultures does by practice and custom resort to resolving problems within the family and society, and adoption is one such modality. Indian marriages in generality do not see a registration but are conducted on custom. The case before the railway was one such circumstance. If the railway takes the posture that the strictness of the regulation must apply, then it is clear that no Class IV employees’ wards may get an employment if adopted. Nobody apprehends death of an earning member so as to keep papers as a record, to be made available for such an eventuality. The eventuality is to seek employment on the rule of harness. In India amongst economically weaker sections of the society, and at times the middle class not excluded, the generality is that children are adopted and are brought up by foster parents without the rigours of a registered document. This is one such matter where a hard or fast rule or a rigid interpretation of the regulation may, perhaps provide a soul-less escape for the railway administration but it will defeat the rule of harness and not solve a problem of life for a class for whom the rule was meant. Fraud, mischief, misrepresentation may by all means be inquired, so as not to render the Rule of Harness in service nugatory. But if the relationship of adoption and foster parents be bona fide and not manufactured to defeat a regulation, such a relationship, exceptions apart as pointed out, should be accepted.”

4. In view of the aforesaid settled principles of law, the



issue requires consideration by the authorities in light of the law declared by the Division Bench of this Court. It would be open to the petitioner to place before the authorities other contemporaneous documents for effective consideration of his case.

5. Let the petitioner produce all the documents for effective consideration of his case before the respondent authorities. In case such application is filed within a period of four weeks, respondent authorities would be obliged to consider the same in accordance with the declaration of law in case of *Most Shitali Devi & another* (noticed herein above) and take a final decision by passing a speaking and reasoned order within a period of eight weeks from the date of receipt/production of a copy of this order.

6. The writ petition is disposed of with the aforesaid observations and directions.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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