

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18822 of 2018

1. The Union of India through the Ministry of Railway, New Delhi through its Chairman.
2. The Chairman, Railway Board, New Delhi.
3. The Senior Divisional Railway Manager DRM, East Central Railway, Danapur, Patna, Bihar.
4. The Welfare Inspector, East Central Railway, Danapur, Patna, Bihar.

... .. Petitioner/s

Versus

1. Basanti Devi and Anr W/o- Late Akbali Prasad Singh.
2. Rajesh Kumar, S/o- Late Akabali Prasad Singh,
Both resident of Mohalla- Indai, Station- Road Sheikhpura, P.O. P.S.
and District- Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Siddhartha Prasad, Adv.
For the Respondent/s	:	Mr.Rajesh Kumar Sinha, Adv.
		Mr. Amresh Kr. Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 04-02-2020

Heard learned counsel for the parties.

The present matter relates to appointment on compassionate ground.

The challenge has been given by the Railway Administration that refusal has been recorded on the ground that there is no registered document showing adoption before the death of Akbali Prasad Singh and the registered document, which has



been created, itself shows that the adoption has taken effect after death of Akbali Prasad Singh.

The registration is not a mandatory requirement for adoption in the Hindu Adoption and Maintenance Act but, it is an unimpeachable document with regard to adoption has taken place. The mandatory requirement has been provided under Section 6 which prescribes that no adoption shall be valid unless the person adopting has the capacity, and also the right, to take in adoption; the person giving in adoption has the capacity to do so; the person adopted is capable of being taken in adoption; and the adoption is made in compliance with the other conditions mentioned in this Chapter. Other provisions are also prescribed. Section 16 of the Hindu adoptions prescribes presumption of adoption.

The respondents have produced sufficient number of documents, altogether nine documents, showing relationship of the present respondents with Akabali Prasad Singh. In all the educational certificates, Akabali Prasad Singh has been shown to be the father of the respondent no.2. The Circular cannot have the overriding effect on the Adoption Act. Submission has been made that it is by way of supplement but, not to be treated as supplanted and cannot be interpreted de hors to the statutory provision.



In that view of the matter, we do not find any error in the order passed by the Central Administrative Tribunal. This writ application is, accordingly, dismissed.

Now after the judgment of this Court, the Railway Administration cannot coerce or insist the respondents to produce the registered documents of adoption as that is not mandatorily required.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

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CAV DATE	NA
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