

12.09.2023
Item No.11
Court No.11
Avijit Mitra

WPCT 109 of 2023

In re: An application under Article 226 of the Constitution of India;

And

Shri Ruplal Murmu & anr.
- Versus -
Union of India & ors.

Mr. Jagadish Ranjan Das
...for the petitioners

Mr. S.N. Dutta,
Ms. Anamika Pandey,
Ms. Amrita Pandey,
Ms. Sneha Singh
...for the respondents

The present writ petition has been preferred challenging an order dated 17th March, 2023 passed by the learned Tribunal in the original application being O.A. No.350/0008/2020.

Mr. Das, learned advocate appearing for the petitioners submits that the petitioner no.2, namely, Malati Murmu @ Maloti (hereinafter referred to as Maloti) was the wife of late Lakhoo Murmu @ Lakhu (hereinafter referred to as Lakhu). They adopted the petitioner no.1, namely, Ruplal Murmu (in short, Ruplal) as per Santhal customs. Lakhu was a railway servant, who died-in-harness on 13th August, 2008. Thereafter, Maloti submitted an application for compassionate appointment of Ruplal. As her application was not considered, the petitioners approached the learned

Tribunal by filing an original application being OA No.1612 of 2013. The same was disposed of by an order dated 26th November, 2015 directing the respondents therein to specifically ascertain from their records the status of Ruplal and to consider the claim towards compassionate appointment. Pursuant to such direction, an order was passed by the respondent no.3 on 7th April, 2016 rejecting the petitioners' claim. Aggrieved thereby, the petitioner no.1 submitted a further representation on 27th August, 2018 alleging that the said order was contrary to the findings arrived at by the learned Tribunal in its order dated 26th November, 2015. As the said representation was not considered the petitioners again approached the learned Tribunal by filing an original application being OA No.350/1076/2019 which was again disposed of by an order dated 29th August, 2019 with a direction upon the competent authority to consider the said representation. In response thereto, the respondent no.3 again passed an order on 22nd November, 2019 rejecting the petitioners' claim. Aggrieved thereby, the petitioners' again approached the learned Tribunal by filing an original application being OA 350/0008/2020. The order dated 17th March, 2023 passed in the same is the subject matter of challenge in the present writ petition.

Mr. Das strenuously argues that the document annexed at page 52 of the present writ petition would clearly reveal that Lakhu and Maloti adopted Ruplal and the said

certificate was issued in consonance with the Santhal customs. The respondent nos.1 to 3 themselves issued railway passes in favour of the deceased wherein it was categorically incorporated that the deceased was having a wife and a son. Having issued such railway passes, the respondents could not have wriggled out of the rigours of the contents of Railway Board circular dated 27th December, 1996. Clause 3 of the said circular states that the Railway Board reviewing its earlier directions had decided that adopted son can be considered for compassionate appointment provided such adoption has been accepted for the issue of privilege passes. Such argument, as advanced, was glossed over by the learned Tribunal and no specific finding was returned on said issue. In view of such infirmity, the order of the learned Tribunal is not sustainable in law.

Drawing our attention to the contents of the order of the learned Tribunal dated 26th November, 2015, Mr. Das argues that the learned Tribunal already arrived at a finding as regards the genuineness of the adoption certificate issued by the competent authority as per Santhali customs and as such the respondents could not have taken any decision contrary to such finding.

Per contra, Mr. Dutta, learned advocate appearing for the respondent nos. 1 to 3 submits that there is a grave doubt as regards the fact that Ruplal was the adopted son of Lakhu and Maloti. No sanctity can be conferred upon the certificate as annexed at page 52 of the writ petition

inasmuch as the said document is an undated one having no seal.

Drawing our attention to a document annexed at page 125 of the said application, Mr. Dutta submits that the said document was a privilege pass issued to one Laloki Soren being the respondent no.4 herein wherein Laloki herself recorded that Ruplal was her son and that his date of birth was 22nd December, 1989. The said pass was issued on 30th March, 2007 and as such on the date of issuance of the pass Ruplal was about 18 years of age. Such fact is totally contradictory to the contents of the adoption certificate annexed at page 122 of the application wherein it has been stated that Ruplal was adopted at an age of two years. On the basis of such adoption, Ruplal's title thereafter ought to have been Ruplal Murmu though the adoption certificate at page 125 of the writ petition reveals that Ruplal was having the title Soren till he was 18 years old. In view of such inconsistencies and contradictions, the learned Tribunal rightly refused to exercise discretion in favour of the petitioners and there is no infirmity in the order impugned.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the order impugned reveals that Mr. Das's primary argument that the document at page 52 of the writ petition was a valid document of adoption had been considered and negated by the Tribunal categorically stating that *'the document does not have a date or any seal or other*

marking to indicate its authenticity'. We do not find any infirmity in such observation.

The second argument of Mr. Das that in the previous proceedings the learned Tribunal arrived at a categorical finding that Ruplal was the adopted son of Lakhu has been rightly discounted by the learned Tribunal. The order dated 26th November, 2015 passed by the learned Tribunal needs to be considered as a whole. A particular clause cannot be taken up and highlighted. A perusal of the order dated 26th November, 2019 reveals that the learned Tribunal upon discussing the issues directed the respondents first to specifically ascertain from their records the status of Ruplal and then to consider the claim for compassionate appointment. The competent authority was not satisfied with the genuineness of the documents, as produced by the petitioners and the reasons towards such non-acceptance of the said documents were disclosed.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the same. The impugned order does not suffer from any jurisdictional error or any substantial failure of justice or any manifest injustice warranting interference of this Court.

The writ petition being WPCT 109 of 2023 is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)