



Writ Petition No.5820 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.03.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.5820 of 2024
and W.M.P.No.6460 of 2024**

1. Union of India,
Represented by the Principle chief Personnel Officer,
Southern Railway Park Town,
Chennai – 600 003.
 - 2.The Senior Divisional Personnel Officer,
Chennai Division, Southern Railway,
NGO Annexe, Park Town,
Chennai – 600 003.
- ... Petitioners

Vs

- 1.The Registrar,
Central Administrative Tribunal,
Madras Bench High Court Building,
Chennai – 104.
 - 2.Dara Ramesh Babu.
- ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari, to call for the records relating to
the impugned order passed by the learned Central Administrative Tribunal,



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chennai Bench the 1st respondent herein in O.A.No.183/ 2022 dated 06.02.2023 and quash the same and pass further orders.

For Petitioners : Mr.C.Samivel
SPC

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)
Heard Mr.C.Samivel, learned counsel for the petitioner.

2. The Challenge in the Writ Petition is to an order passed by the Central Administrative Tribunal, wherein, the Central Administrative Tribunal had quashed an order of the second petitioner herein dated 23.03.2020, by which the claim of the second respondent for compassionate appointment was rejected and a consequential direction was issued to the petitioners to consider the case of the second respondent, after verifying the genuineness of the case of the second respondent, through a different Welfare Officer other than the one who had submitted the report.

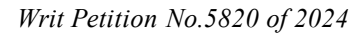
3. The learned Standing Counsel had submitted that the second respondent was the adopted son of the deceased employee and the adoption is an invalid adoption in view of the Section 11(iv) of the Hindu Adoption



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and Maintenance Act, 1956, therefore, he cannot be treated to have been validly adopted by the deceased employee. Hence, he vehemently contented that the claim of the second respondent cannot be entertained.

4. From the various documents that had been produced under the typed set of papers, it could be seen that the deceased employee had originally made a request on 15.10.2000 to enter the name of the second respondent as a legally adopted son. The said request had come to be returned by the Department on 05.03.2001 indicating that the adoption deed submitted by the deceased employee was not legally valid, as the same is not in conformity with Section 11 of the Hindu Adoption and Maintenance Act, 1956, and it had in fact indicated that a declaration could be obtained from a Competent Civil Court. Thereafter, the deceased employee seems to have initiated a suit in O.S.No.183 of 2002 before the Junior Civil Judge in Sullurpet, and by a decree dated 12.12.2002, the Civil Court was pleased to declare that the second respondent herein was a legally adopted son of the deceased employee. Pursuant to the said decree by a Memorandum dated 04.09.2003 issued by the second respondent herein, the deceased employee



5. When a Civil Court had passed the judgment and decree, the same is valid in the eye of law, till the same is set aside or modified in the manner known to law. Further, the second petitioner having accepted the Civil Court decree, had also issued a Memorandum in permitting the deceased employee to include the second respondent in her family composition cannot now turn around and say that the adoption is an invalid adoption.

6. In such view of the matter, we are not inclined to accept the contentions raised by the learned Standing Counsel for the petitioners. What the Tribunal had done is only to direct the petitioners to consider the case of the second respondent by calling for a fresh report from an independent Welfare Officer and thereafter, decide the same on merits.

7. We have also seen that apart from the reasons that were assigned to reject the claim of the second respondent in the counter affidavit, there are



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some other reasons that had been made in support of the case. It is also well known law that an impugned order would have to be supported on the materials on which the same had been passed and the same cannot be strengthened by a counter affidavit, as laid down by the Hon'ble Apex Court in ***Mohinder Singh Gill's*** case reported in ***1978 (1) SCC 405***. But, however, it is always open to the petitioners to assign proper reasons on the basis of the verifications made by the Welfare Officer in passing orders on merits of the case.

8. In view of the same, this Writ Petition fails and the same is dismissed, accordingly. The petitioners are directed to carry out the exercise as directed by the Tribunal, within a period of three months from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B., J.)
07.03.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
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To
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The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Building, Chennai - 104.



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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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