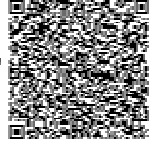


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:017584-DB



CWP-16329-2016 (O&M)
Reserved on : 28.01.2025
Pronounced on : 6th February, 2025

Union of India & others

...Petitioners

Vs.

Central Administrative Tribunal, Chandigarh and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Anil Chawla, Sr. Panel Counsel for the petitioners.

Mr. Harish Bhardwaj, Advocate for respondent No.3.

SANJEEV PRAKASH SHARMA, J.

1. This writ petition assails the order dated 25.02.2016, passed by the Central Administrative Tribunal, Chandigarh (for short 'the CAT'), whereby the CAT, has directed as follows:-

“11. A conjunctive perusal of the pleadings of the parties would indicate that the claim of the applicant no. 2 has never been considered by the respondents for appointment on compassionate ground under the scheme. The sole objection taken by the respondents for rejecting the claim of the applicants vide Annexure P-4 and P-6 is that they will not recognize un-registered adoption deed. There is no whisper qua any ground as to why they would not consider this as a legal document.

Once there is a decree by the Civil Court recognizing this deed, the respondents cannot take this objection and as such it has to be over ruled. Moreover, Hon'ble Punjab and Haryana High Court in Karam Singh Vs. Jagsir Singh, PLR Vol.CLXXVIII-(2015-1) has held that section 16 of the Hindu Adoptions and Maintenance Act, 1956, raises a presumption as to validity of an adoption if the adoption deed signed by the person giving and the person taking in adoption, is registered. The Act, however, does not require an adoption deed to be compulsorily registered or postulates that if an adoption deed is not registered the adoption is invalid. Therefore, we are of the considered view that the respondents have to consider the claim of the applicant No.2 for appointment on compassionate ground by treating him as adopted son of deceased employee.

12. With regard to other plea that the applicant cannot claim compassionate appointment on attaining the age of majority, it is apparent that plea is against their own instructions dated 30.11.1999, Annexure P-1, which delegates power to competent authorities to "consider cases of compassionate appointments where requests have been made for the first son/first daughter, provided the case is not more than twenty years old and the application has been submitted within 2 years from the date of attainment of majority of the candidate". Thus, even plea of the respondents deserves to be rejected more so when case of the applicant has not even been considered by them till date.

13. Leaned counsel for the respondents argued that the circular issued by respondents cannot take precedent over the judicial pronouncements. Be that as it, we have not been called upon to examine the validity of the circular issued by the respondents. They respondents cannot be allowed to issue a circular and then disown the same when it is not convenient to them.

14. In view of the above discussion this O.A. is allowed. Impugned orders, Annexures P-4 and P-6 are quashed and set aside. The respondents are directed to consider the claim of the applicant No.2 for appointment on compassionate grounds in terms of aforesaid observations as also other conditions of eligibility as per rules in this regard. If he is found entitled to, due benefit be given to him else a reasoned and speaking order be passed within a period of 2 months from the date of receipt of a copy of this order.”

2. The contention of learned counsel appearing for the petitioners is that the adoption deed would not be valid unless it is registered. It is also stated that the adoption deed was prepared in close proximity to the death of the employee i.e. on 20.09.2009 and, therefore, the same is not a valid document. It is stated that no reason for non-registration of the adoption deed has been brought on record. The adoption deed relates to the adoption of respondent No.3 in the year 1997 and it has also come on record that a civil court decree dated 24.02.2015, in favour of concerned respondent No.3 declaring him as adopted son of the deceased, railway employee, Raj Kumar, was passed.

3. We have considered the submissions.
4. We are unable to accept the contentions raised by learned counsel for the petitioners (Railway Authorities) as the adoption deed is not required to be necessarily registered in law and the only aspect required to be proved before any competent Court of law is that whether the conditions under the Hindu Adoptions and Maintenance Act, 1956, have been followed and whether the adoption deed was executed validly.
5. In the present case since there is a decree of the Civil Court, the question does not arise to raise doubt about the validity of the adoption deed. The rejection of the application for appointment by the Railway Authorities on the ground that the adoption deed is not registered, is found to be baseless and contrary to the settled provisions of law. In **Mst. Param Pal Singh through father v. M/s National Insurance Company Ltd. 2013 (3) SCC 409**, the Hon'ble Supreme Court held that the adoption deed is not required to be necessarily registered and further held as under:-

“12. In this context, it will be worthwhile to note the requirement of registration of an Adoption Deed. Section 17 of the Registration Act specifically refers to the documents of which registration is compulsory. The deed of adoption is not one of the documents mentioned in sub-section 1 of Section 17 which mandatorily required registration. Sub-section 3 of Section 17 only refers to the mandatory requirement of registration of an authorization that may be given for adopting a son executed after 01.01.1872 if such authorization was not conferred by a Will. Dealing with the said provision relating to

authorization, it has been held in the decision reported in Vishvanath Ramji Karale V. Rahibai Ramji Karale and others - AIR 1931 Bombay 105 by a deed of adoption as distinguished from authority to adopt does not require registration.”

6. The denial of consideration to application of respondent No.3, is, thus, found to be unjustified. We accordingly uphold the order passed by the CAT dated 25.02.2016 with further direction to the appellants to comply with the same within a period of one month henceforth.
7. The appeal is accordingly dismissed.
8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

6th February, 2025
rajesh

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| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |