

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this Tuesday, the **08th** day of September, 2021

Original Application No. 330/00670/2021

Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)

1. Pawan Yadav, aged about 42 years,
2. Pramod Kumar Yadav, aged about 36 years,
Both S/o late Sri Dasrath Singh Yadav, at present R/o House No.264, Mohalla Kasav, Near Gahoi Dharmshala, Dinara, Tehsil Karaira, District Shivpuri, M.P., Permanent R/o 14, Manohar Pura, Nagra, Jhansi, U.P.

... Applicants

By Advocate : Shri Bashist Tiwari

V E R S U S

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. Senior Divisional Personnel Officer, North Central Railway, Jhansi.
3. Smt. Uma Devi, alleged W/o late Sri Dasrath Singh Yadav,
4. Ritu Raj Singh Yadav, alleged S/o late Sri Dasrath Singh Yadav,
Both (3-4) R/o Village Sainyar, Tehsil and District Jhansi, U.P., at present R/o Behind Kali Mandir, Athodana Road, Prem Nagar, Nagra, Jhansi.

... Respondents

By Adv: Shri S.M. Misra

O R D E R

By Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)

Shri Bashist Tiwari, learned counsel for the applicants and Shri S.M. Mishra, learned counsel for the respondent No.1 and 2, who has appeared on advance notice, both are present in Court.

2. Heard learned counsel for the parties on admission and perused the record.

3. At the very outset, learned counsel for the respondents has raised the preliminary objection about the maintainability of this OA. by drawing my attention to the relief column of the OA in which the applicants have prayed the following relief(s) :-

- (i) To issue an order or direction declaring the compassionate appointment of Mr. Ritu Raj Singh Yadav, respondent No.4 as unconstitutional and illegal and given appointment to the applicant No.1.***
- (ii) To issue an order or direction commanding the respondent Nos. 1 and 2 to initiate disciplinary proceedings against respondent No.4 who has taken compassionate appointment by playing fraud which is nullity in the eyes of law.***
- (iii) To grant all the consequential relief which the applicant is entitled for.***
- (iv) To grant any other relief which this Hon'ble Court may deem fit and proper under the circumstances of the case.***
- (v) To award the cost."***

4. It is contended by learned counsel for the respondents that the relief claimed by the applicant involves the decision on the parentage of respondent No.4. Without ascertaining the parentage of respondent No.4, this Tribunal cannot declare his compassionate appointment as unconstitutional and illegal. However, as the Competent Court to decide the parentage of a person is "family Court", the applicants may be directed to first approach the Family Court for such declaration and then come to this Tribunal for grant of compassionate appointment.

5. Learned counsel for the applicants could not give any satisfactory reply to this objection.

6. In view of the above, the OA is liable to be dismissed at the admission stage and is accordingly dismissed as not maintainable.

7. No order as to costs.

(Justice Vijay Lakshmi
Member(Judicial))

RKM/