

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1631 of 1994

Allahabad this the 31st day of January, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Akadasi Yadav, Son of Shri Shiv Poojan Yadav,  
resident of village Surayee, Post Office Sathiyav,  
Distt.Azamgarh.

Applicant

By Advocate Shri Kamlesh Kumar

Versus

1. Union of India through Secretary, Ministry of Railways, New Delhi.
2. Divisional Railway Manager(Karmik), North Eastern Railway, Varanasi.
3. Sri Deo Nath Yadav S/o Shri Ghurivan Yadav R/o Surayee, P.O. Sathiyav, Distt.Azamgarh.

Respondents

By Advocate Shri Prashant Mathur  
Shri A.K. Singh

O R D E R ( Oral )

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

As per the applicant's case, he is the son of deceased - Shri Shiv Poojan Yadav who died in harness on 14.3.1982 while in the service of railway department at the post of Hamal. The applicant being in distress condition, applied to

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*See ~ ~ ~*

the railway department for his appointment on compassionate ground but the respondents have illegally and ~~arbitrarily~~ appointed Shri Deo Nath Yadav- respondent no.3 taking him as <sup>rightful</sup> ~~original~~ claimant for the post, being related to the deceased-Shiv Poojan Yadav and now the applicant has come up for direction to the railway department to appoint him under dying in harness rules and to oust Shri Deo Nath Yadav - respondent no.3.

2. The official respondents have contested the case and have come up with the plea that on the request of the applicant, ~~one~~ appointment was given to Shri Baij Nath by the railway administration and as per rules, only one appointment can be made on compassionate ground. During the course of arguments, Shri Prashant Mathur mentions that appointment on compassionate ground was given to Shri Deo Nath Yadav and there is typing mistake in para-3 of the counter affidavit wherein Baij Nath has wrongly been typed whereas it should have been Deo Nath Yadav.

3. Shri Deo Nath Yadav-respondent no.3 has also filed his separate counter-reply in which he has averred that he has been appointed on compassionate ground on the request made by Smt. Ram Rati Devi-wife of Shri Shiv Poojan Yadav. He has also <sup>asserted</sup> ~~assailed~~ to be the cousin brother of deceased - Shri Shiv Poojan Yadav and member of joint Hindu family.

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4. Heard the arguments of rival contesting parties and have perused the record.

5. It is evident from the pleadings of the contesting parties that on the death of Shri Shiv Poojan Yadav, respondent no. 3, Shri Deo Nath Yadav was appointed by the respondents department on the compassionate ground taking him to be the person entitled for the benefit. Now Shri Akadasi Yadav who claims himself to be the son of the deceased, Shiv Poojan Yadav, has alleged that Shri Deo Nath Yadav has played fraud with the respondents having consequential adverse effect even on the applicant himself and, therefore, suitable directions by the Tribunal have been sought for.

6. It is service Tribunal to decide the service disputes under the relevant rules in this regard but the present matter involves a civil declaration in respect of the title of the present incumbent and the claimant for which they may seek remedy before the Civil Court. Learned <sup>for respondent</sup> counsel mentioned during the arguments that a criminal case is pending before the Court of C.J.M., Azamgarh for alleged fraud, which is said to have been played in the matter.

7. With the above position in view, at present, nothing remains to be decided by this Tribunal. With this observation, the O.A. is disposed of. No order as to costs.

*See margin*