

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1268 OF 2003

ALLAHABAD, THIS THE 28th DAY OF JANUARY, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Vir Bahadur son of Late Shri Bhimal Yadav,
resident of Vill, Rampur (Udaibhan)
P.S. Ballia District;Ballia.

.....Applicant

(By Advocate : Shri Sarvajeet Singh)

V E R S U S

1. Union of India through General Manager,
North Eastern Railway, Headquarters Office,
Gorakhpur.
2. The Divisional Railway Manager (Personnel),
Eastern Railway, D.R.M. Office,
Varanasi.
3. Jawahar Lal Yadav
son of Late Vimal Yadav
resident of Vill; Rampur (Udaibhan)
Dist. Ballia.

.....Respondents

(By Advocate : Shri D.S. Shukla)

O R D E R

By this Original Application applicant has sought the following reliefs:-

(a) The Hon'ble Tribunal may graciously be pleased to issue writ order or direction in the nature of certiorari commanding the respondent No.2 to set-aside/questing the impugned order dated 13.08.2003 and further dismissing the services of the respondent No.3 who fraudulently taken the signature of Smt. Shiv Kumari, Lal Bahadur and the applicant for getting appointment.

(b) The Hon'ble Tribunal may graciously be pleased to issue writ order or direction in the nature of mandamus commanding the respondent to re-consider the appointment of the applicant under the dying in harness rules.

(c) the Hon'ble Tribunal may graciously be pleased to direct the respondent No.2 to decide the application dated 17.05.2003 and subsequent application on 17.09.2003 in the favour of applicant.

(d) The Hon'ble Tribunal may graciously be pleased to pass any other order or direction as may deem fit and proper under the circumstances of the case in the favour of the applicant.

(e) The Hon'ble Tribunal may graciously be pleased to award the cost of the application."

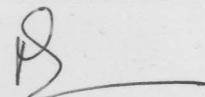
2. Grievance of the applicant in this case is that he was a minor at the time when his father died on 23.09.2001 leaving behind 2 wives and 4 male children including the applicant as a minor. Thereafter, since deceased employee had left two wives, he filed a succession certificate as required by the Railway authorities, which was issued from the office of the Tehsildar Ballia to prove the successor of the deceased Late Shri Bhimal Yadav. On the basis of said certificate, applicant has been paid a sum of Rs.86,442/- as a death benefit of his father being a minor through his mother. However, since he was a minor, he could not give application for grant of compassionate appointment ^{at that relevant time, 18}. Therefore, after attaining the age of majority applicant gave application dated 17.05.2003 in the office of Respondent No.2 but till date the same has not been decided by the respondents. On the contrary appointment on compassionate ground has been given to the son of first wife i.e. the respondent No.3 herein vide office order dated 13.08.2003 (Pg. 12). Applicant has challenged the said order on the ground that even if the second marriage is null and void but the child borne out of the wedlock would be legitimate and would have equal right like like other children. Therefore, at least his application should



have been considered by the respondents and appropriate orders should have been passed thereon.

3. Counsel for the respondents was seeking time to file reply but since grievance of the applicant in this case is that his application has not even been considered by the department and he ~~has~~ ^{is} stated to have ~~been~~ given the succession certificate also to the respondents No.2, ~~Therefore~~, I am of the opinion that this case can be decided at the admission stage itself without going into the merits of the case by giving a direction to the respondent No.2 to consider the application of applicant and to pass an appropriate order~~s~~ thereon in accordance with law within a period of 3 months from the date of receipt of a copy of this order. It goes without saying that the orders should be ~~passed~~ reasoned and speaking order.

4. With the above directions, this O.A. is disposed off at the admission stage itself with no order as to costs.



Member (J)

shukla/-