

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2640 of 2018

Somnath Mahto @ Shobh Nath Mahto, Son of Ramshankar Mahto, Resident of Village- Khalifa, P.O.- Khaeaspur, P.S.- Krishnagarh, District- Bhojpur.

... .. Petitioner

Versus

1. The Union of India through the General Manager, North Central Railway, Hajipur.
2. North East Railway, Zonal Office through the General Manager, North Central Rly, Hajipur, District-Vaishali.
3. The Station Superintendent, North East Railway, Barauni Junction, P.S.- Barauni, District- Begusarai.
4. The Station Master, Barauni Junction, North East Railway Barauni, P.S.- Barauni, District- Barauni.
5. Chunchun Mahto, Son of Mahender Mahto, Resident of Village- Suryapura, P.O.- Suryapura, P.S.- Bhagwanpur, District- Begusarai.
6. Mahender Mahto, Son of Late Bhochan Mahto, Resident of Village- Suryapura, P.O.- Suryapura, P.S.- Bhagwanpur, District- Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Sumant Kumar Singh, Advocate
For the Respondent/s : Dr. Anand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 01-07-2019

Heard learned counsel for the petitioner and learned counsel for the Railway Administration.

2. In this case, the petitioner is claiming to be the brother-in-law of Mahender Mahto, respondent no.6, who was a Collie at Barauni Junction and was given batch no.86. As Mahender Mahto had become an old person and not in a



position to perform the duty of Collie, the present petitioner filed an application that he should be appointed as Collie on the ground that Mahender Mahto has sworn an affidavit, stating therein that he is ailing having no son and daughter and he is unable to perform the duty of Collie, accordingly, he had transferred his license batch no.86 to his brother-in-law namely, Somnath Mahto, son of Ram Sankar Mahto, resident of village-Khalifa, P.O.- Khawaspur, P.S.- Krishnagarh, District- Bhojpur. It has further been stated in the affidavit that he has no grievance if his license batch no.86 is transferred to his brother-in-law and have a trust that his brother-in-law will look after him and will arrange all medical facilities for him. Said Mahender Mahto also filed an application before the Commercial Officer, Sonapur Division, Sonapur. After receipt of the same, the authority addressed a letter to the Chief Ticket Inspector, recognizing the application of Mahender Mahto of transferring his license to the present petitioner on account of his advanced age and the health problems. Whereupon, the Chief Ticket Inspector, directed to communicate the present petitioner to deposit the arrears of fee, inasmuch as, the declaration of Mahender Mahto regarding his successor and heir.



3. It appears that another person namely, Chun Chun Mahto came into fray, claiming to be the son of Mahender Mahto and claimed that he has first preference over the petitioner in getting the license of Collie. However, it appears that later on, said Mahendra Mahto has changed his stand and made out another case that present petitioner has secured his licence by committing theft and has also filed an affidavit that he has four sons and three daughters, which is contrary to the earlier stand made in the affidavit.

4. So, on the one hand said Chun Chun Mahto is claiming to be the son of Mahender Mahto, so the license should be given to him and on the other hand, petitioner is claiming to be the brother-in-law of Mahender Mahto and raising grievance that he should be granted the licence on account of affidavit filed by said Mahender Mahto. The genuineness of the affidavit has to be verified by the competent authority.

5. In such view of the matter, the competent authority is directed to decide the issue of grant of license to the petitioner or to Chun Chun Mahto after hearing both the parties and after considering the affidavit filed by Mahender Mahto earlier that he has no son and daughter. While deciding the issue, the competent authority will also consider the materials brought by



both the parties. All the exercise should be completed within a period of three months from the date of receipt/production of a copy of this order.

6. At this stage, learned counsel for the petitioner submits that the order dated 23.03.2017 passed by the Station Superintendent, North East Railway, Barauni Junction, should be set aside, but this Court is of the view that validity of the order dated 23.03.2017 will be dependent on the outcome of final decision with regard to whom the licence will be transferred. The license will be granted in terms of the final order of the Railway Authority.

7. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	06.07.2019
Transmission Date	

