CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS:BILASPUR

Original Application No.203/00578/2019

Bilaspur, this Friday, the 22nd day of November, 2019

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE SHRI B.V. SUDHAKAR, ADMINISTRATIVE MEMBER

1. Mukesh Kumar Rathore
S/o Late Shri Gorelal Rathore
26 years Village & Post Seoni
Tahsil Champa
District Janjgir Champa C.G. (495671) **-Applicant**

(By Advocate-**Shri Yogesh Chandra Sharma**)

V e r s u s

1. South East Central Railway Through the General Manager SECR Bilaspur Distr-Bilaspur Chhattisgarh 495004

2. Chief Administrative Officer (Construction) Pesonnel Branch, South East Central Railway Bilaspur District Bilaspur Chhattisgarh 495004

3. Collector District Janjgir Champa Chhattisgarh 495668

4. Sub-Divisional Officer (Revenue) & Land Acquisition Officer Champa District Janjgir Champa Chhattisgarh 495671

- **Respondents**

(By Advocate-**Shri R.N. Pusty**)

O R D E R (Oral)

By Ramesh Singh Thakur, JM:-

The applicant has preferred this Original Application against the order dated 07.11.2012 and 19.06.2019 passed by Senior Administrative Officer (R.R.) and Deputy Chief Personnel Officer whereby the respondent No.2 has refused to consider the application for recruitment of applicant against the land acquired by the Railways for Champa bypass Railway Line.

2. The applicant has prayed for the following reliefs:-

> *"8(a)This Hon'ble Tribunal may kindly be pleased to call for the entire records concerning the action taken by the respondent-authorities with respect to the recruitment of land losers, whose land has been acquired for construction of Champa bypass railway line.*
> *(b) This Hon'ble Tribunal may kindly be pleased to quash and set aside the decision of respondent No.2, which was sent to applicant, vide letter dated 07.11.2012 (Annexure A-1) and dated 19.06.2019 (Annexure A-2) of the respondent No.2.*
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> *(c) This Hon'ble Tribunal may kindly be pleased to issue an appropriate direction directing the respondent authorities to reconsider the appointment of applicant tin the suitable post under the recruitment scheme for the land losers in railway like other grandsons of land losers appointed in railway.*

(d) Any other relief (including the cost of the present proceedings) which this Hon'ble Tribunal deem just, fair and equitable in the circumstances of the case may be granted."

3. Precisely the case of the applicant is that the land in the title of Grandfather/Father by adoption (Late Shri Ganeshram) of the applicant bearing Khasra No.2327 area 0.020 hectare at Seoni Patwari Halaka No.02 Tehsil Champa District Janjgir Champa has been acquired by respondent No.4 for construction of Champa bypass railway line project of the respondent-Railways. The applicant was called by the respondent No.2 vide letter dated 04.02.2012 to appear before the screening committee of respondent-Railway on 28.02.2012 in account of land losers quota. The respondent-Railway vide letter dated 07.11.2012 informed the applicant that he is not entitled to be considered for employment under the scheme of railway being a grandson of sole owner of land. The applicant filed representation dated 18.11.2013. The applicant came to know that similar relief has been granted

by this Tribunal in O.A. No. No.203/00929/2014 on 28.11.2017 and the Writ Petition (s) No.1349/2018 (***South East Central Railway and others*** vs. ***Yashvant and others***) filed against the Tribunal's order was also dismissed by Hon'ble High Court of Chhattisgarh vide order dated 03.04.2018. The applicants have submitted representation dated 03.06.2019 (Annexure A/14) citing the said judgments. But the respondent-Railways vide its letter dated 19.06.2019 (Annexure A/2) rejected the claim of the applicant.

4. In the reply the respondents have submitted that the land of the grandfather of the applicant has been acquired by the respondent-department. The case of the applicant has been rejected only on the ground that the applicant is the grandson and as per policy he was not entitled for employment.

5. We have heard the learned counsel for both the parties and have gone through the annexure attached with the pleadings.

6. The only point for determination before us is that whether the applicant (grandson) is entitled for benefit of scheme as per policy of the respondent-department.

7. The counsel for the applicant has relied upon the judgment passed by Hon'ble High Court of Chhattisgarh in Writ Petition (S) No.1349/2018 (***South East Central Railway and others*** vs. ***Yashvant and others***) decided on 03.04.2018 whereby the Hon'ble High Court has upheld the order passed by this Tribunal in O.A. No.203/00929/2014 decided on 28.11.2017. Hon'ble High Court has dealt with the issue in Para 3 and 4 of the said judgment which are as under:-

> *"3. It is not in dispute that no members of the family of the person from whom the land was acquired was appointed as among the land losers. The Railways also do not dispute the fact that the 1st Respondent is the grandson of the primary owner of the land, which was acquired. Revised instructions dated 16.07.2010 issued by the Railway Board says that the Applicant shall be a person whose land or a portion thereof has been acquired for the project. It is the provision therein that in case of sole owner of land, the applicant shall be the sole owner or son/daughter/husband/wife of the land. The said clause further elaborates to say that if the land is owned by more than one person, it would be for the*

competent authority to decide as to who shall be considered as applicant. This clause itself shows that there is a fair amount of discretion available to the Railway Authorities in the matter. The ultimate requirement is that there should not be any appointment, of more than one person referable to one owner of an item of land which is acquired by the Railways. A purposive approach in understanding the Railway Board's notification would definitely lead to the conclusion that in cases where situation of the nature in hand occur, it will be within the authority of the Railways to make the appropriate choice; even down in the probable line of succession; particularly when all the three person are still alive and are shown to have been carrying out agricultural operations over land that they lost as a result of requisition by the Railways.

4. In the aforesaid view of the matter, we do not find that there is any illegality or injustice done to the Railways, in the manner in which the Tribunal has dealt with the application filed by the 1st Respondent before it. The Tribunal acted well within its jurisdiction in terms of the provisions of the Administrative Tribunal Act, 1985. The conclusions on facts have been rendered on the basis of materials on record. Inferences drawn by the Tribunal are fair and reasonable. They cannot be treated as unjust and unavailable. Balancing the right of the Railways and their obligation to provide employment to land losers on the one hand and the eligibility of alteast one person to get employment on account of land acquisition, we do not see any that injustice has been cause to the Railways by the impugned verdict. We, therefore, do not find any ground visit the decision of the Tribunal by exercising authority under Article 227 of the Constitution of India. The writ petition thus fails."

8. We have considered the matter and we are of the view that this issue regarding the eligibility of the grand son has been dealt by this Tribunal which has been upheld by the Hon'ble High Court of Chhattisgarh in the case of ***Yashvant*** (supra) and the instant case is totally covered by the law laid down by this Tribunal and upheld by Hon'ble High Court of Chhattisgarh.

9. Resultantly, this Original Application is allowed and Annexure A/1 dated 07.11.2012 and Annexure A/2 dated 19.06.2019, passed by the respondent-department, are quashed and set aside. Respondents are directed to reconsider the case of the applicant in the light of order passed by this Tribunal and upheld by Hon'ble High Court, within a period of 60 days from the date of receipt of a certified copy of this order. No costs.

(B.V. Sudhakar)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

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