

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPS No. 1349 of 2018

1. South East Central Railway Through General Manager, SECR, Bilaspur, District Bilaspur (Chhattisgarh)
2. Chief Administrative Officer (Con) Personnel Branch, SECR, Bilaspur, District Bilaspur Chhattisgarh.

---- Petitioners

Versus

1. Yashvant S/o Ganga Prasad R/o Village PO- Kosmanda, Tehsil Champa, District Janjgir Champa Chhattisgarh.
2. The Collector, District Janjgir Champa Chhattisgarh.
3. The Sub Divisional Officer (Revenue) Land Acquisition Officer, Champa, District Janjgir Champa (Chhattisgarh)
4. Ramnarayan, S/o Late Chhedilal Trackman, Office of Senior Engineer (Railpath), SECR, Champa, District Janjgir Champa (Chhattisgarh)
5. Ramkhilawan, S/o Bodhiram Helper, PCO-II, Wagon Repair Shop, WRS, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioners	:	Shri H.S. Ahluwhalia, Advocate.
For Respondent No.1	:	Shri K.R. Nair, Advocate.
For Respondents No.2 & 3	:	Shri U.N.S. Deo, Government Advocate.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

03.04.2018

1. We have heard the learned counsel for the Petitioner/South Eastern Central Railway; hereinafter referred to as 'SECR', and the learned Government Advocate as also the learned counsel for Respondent No.1, who filed an application before the Central Administrative Tribunal, Jabalpur Bench; hereinafter referred to as 'Tribunal', and obtained the order that is assailed by

the SECR through this application under Article 227 of the Constitution of India.

2. It is not in dispute that an item of land which was acquired by the Railways belonged to the grandfather of 1st Respondent. That person was more than 72 years of age and his son was around 58 years of age. That family, therefore, projected the 1st Respondent, who is the grandson in the line, as the one who may be appointed in consonance with the ameliorative provision for appointment of land losers affected by the land acquisition for Railway projects. The dispute before the Tribunal was as to whether a person who is, admittedly, the grandson of the owner of the land could be appointed at least in a situation where the original owner of land and even his son had become age barred for appointment. The Applicant before the Tribunal who is the 1st Respondent before us, was found to have established before the Tribunal that the Railways had given appointment to two other similarly situated persons, who were, actually, a grandchildren of the respective land losers. The Tribunal ultimately handed down the verdict in favour of the 1st Respondent, thereby requiring the Railways to reconsider their proposal to refuse appointment of the 1st Respondent.

3. It is not in dispute that no member 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 persons 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 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 atleast 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.
5. In the result, this writ petition is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge