

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on : 25.06.2019****Order delivered on : 15.07.2019****Writ Petition (S) No.1439 of 2018**

(Arising out of the order dated 28.11.2017 passed by the Central Administrative Tribunal in O.A.No.203/00935/2014)

1. Union of India Through the Secretary Department of Railways, Rail Bhawan Raisina Road, New Delhi
2. Chief Administrative Officer (Con) Personnel Branch, Railway Area, Bilaspur, Dist-Bilaspur
3. Deputy Chief Personnel Manager (Con). South East Central Railway Railway Area, Bilaspur (CG)

---- Petitioners**Versus**

1. Malejram S/o Late Gokul Aged about 70 years R/o village Kosmanda, P.S/Tehsil-Champa, Post-Champa Dist-Janjgir Champa
2. Omkar Prasad Rathore S/o Malejram Rathore Aged about 30 years R/o village Kosmanda, P.S/Tehsil-Champa, Post-Champa Dist-Janjgir Champa
3. The Collector, District Janjgir Champa (CG)
4. The Sub Divisional Officer (Revenue) Land Acquisition Officer, Champa, Dist-Janjgir Champa (CG)

---- Respondents

For Petitioners	:	Mr.R.K.Gupta, Advocate
For Respondents No.1&2	:	Mr.Ashok Kumar Shukla, Advocate
For Respondents No.3&4	:	Mr.Vikram Sharma, Panel Lawyer

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Sanjay K. Agrawal, Judge****C.A.V. Order****Sanjay K. Agrawal, J.**

1. Invoking jurisdiction of this Court under Article 227 of the Constitution of India, the petitioners herein call in question legality, validity

and correctness of the order dated 28.11.2017 passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting Bilaspur (hereinafter called as "Tribunal") by which the said Tribunal has allowed the Original Application filed by respondents No.1 and 2 herein and set aside the order dated 12.9.2013 passed by the petitioner-Railways rejecting the application of respondent No.2 herein to consider his case for employment under the relevant scheme dated 13.10.2010.

2. Respondents No.1 and 2 were originally applicants before the Tribunal who had filed Original Application stating inter-alia that the land bearing khasra No.436, area 0.138 hectare situated at village Kosmanda was acquired by the petitioner-Railways for the purpose of construction of Champa bypass railway line, but in lieu of acquisition of land as per prevalent policy, one of them have not been given employment nor they have been given compensation. Therefore, they are entitled for consideration for employment as per circular dated 13.10.2010 and rejection of claim of respondents No.1 and 2 by order dated 12.9.2013 is arbitrary and one of the applicants i.e. applicant No.2/respondent No.2 herein is entitled to be appointed.

3. The petitioner-Railways filed its reply before the Tribunal and opposed the prayer for grant of consideration for employment stating inter-alia that for the purpose of railway project, land of respondents No.1 and 2 herein jointly held in the names of Malejram, Kaleshram and Rohit, Sons of Shri Gokul bearing khasra Nos.446/2, 457 and 448/3, was acquired and in lieu of that acquired land, the petitioner-Railways has already provided employment to Karan Kumar, S/o Shri Kaleshram, as proposed by land acquisition officer and therefore, the Railways has rightly rejected the claim

of respondents No.1 and 2 and they are not entitled to be reconsidered.

4. Learned Tribunal by its order dated 28.11.2017 granted the original application stating inter-alia that the land bearing khasra No.436, area 0.138 hectare has been acquired by the Railways for construction of Champa bypass railway line and also acquired other lands and for acquisition of lands bearing khasra Nos.446/2, 457 and 448/3, the Railways has given employment to one Karan Kumar, S/o Shri Kaleshram, but against the land bearing khasra No.436, which is a separate piece of land, the case of the applicants therein/respondents No.1 and 2 herein is covered under the scheme and applicant No.2 therein is entitled to be considered for employment under the scheme. Questioning the above-stated order, this writ petition has been preferred.

5. Mr.R.K.Gupta, learned counsel for the petitioners, would submit that learned Tribunal is absolutely unjustified in granting the original application by directing the petitioners to consider the case of respondent No.2 for grant of employment contrary to clause 7 of the circular dated 13.10.2010 as the land bearing khasra Nos.446/2, 457, 448/3 and 436 is being jointly held in the names of Malejram, Kaleshram and Rohit, Sons of Shri Gokul and in lieu of land bearing khasra Nos. Nos.446/2, 457 and 448/3, one Karan Kumar, S/o Shri Kaleshram, has already been given employment and upon screening, the railway authorities have found that one member of the family has already been given employment and therefore, the Railways has rightly rejected the case of respondent No.2 herein for grant of employment as per scheme, but learned Tribunal has committed illegality in reversing the order of the petitioner-Railways holding that merely because the land bearing khasra No.436 has also been acquired, which is also

recorded in the joint names of Malejram, Kaleshram and Rohit, Sons of Shri Gokul and respondent No.2 being son of Malejram is entitled for employment under the scheme, as such, the order impugned deserves to be set aside.

6. Mr.Ashok Kumar Shukla, learned counsel for respondents No.1 and 2, would oppose the submissions made by learned counsel for the petitioners/Railways and submit that khasra No.436 is a separate piece of land though jointly recorded in the names of Malejram, Kaleshram and Rohit, Sons of Shri Gokul, but no appointment has been offered against the said land bearing khasra No.436, which is a separate piece of land in the revenue records and merely because both the lands including the land bearing khasra No.436 were jointly recorded in the names of Malejram, Kaleshram and Rohit, it cannot be held that the property is joint family property and appointment has already been given to one member of the family against acquisition of some land of that family and therefore, respondent No.2 is not entitled for employment, as such, learned Tribunal has rightly concluded and held that respondent No.2 is entitled for consideration for grant of employment.

7. We have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

8. The Railway Board has issued a circular dated 13.10.2010 providing guidelines/rules for granting employment to the land losers in lieu of acquisition of their land for the Railways project. The object of the scheme is to provide employment to a person whose land has been acquired for the railway project. Clauses 2 and 7 of the circular dated 13.10.2010, which are

applicable to the case of respondents No.1 and 2, state as under:-

“2. Screening Criteria:

(i) The applicant shall be a person (sole owner of land or son/daughter/husband/wife of the sole owner) whose land or a portion thereof has been acquired for the project. In case the land is owned by more than one person, the Competent Authority, as defined in the Railway (Amendment) Act 2008/Land Acquisition Officer, will decide who shall be considered as applicant. Only one job shall be offered to an applicant from the land loser family.

(ii) It must be ensured that the displaced person has not received any land from the State Government in lieu of his/her land acquired/being acquired for the project.

7. Once an offer of appointment has been made, no further application claiming appointment on ground of acquisition of the same piece of land shall be entertained.”

The aforesaid scheme clearly states that only one job shall be offered to a person from whom land has been acquired and once offer of appointment has been made, no further application claiming appointment on the ground of acquisition of the same piece of land shall be entertained.

9. In the matter of State of Haryana v. Naresh Kumar Bali¹, Their Lordships of the Supreme Court have held that once a person is considered and appointed on compassionate ground as per scheme, he cannot be considered again, as right to make appointment on compassionate ground stood exhausted.

10. Later on, in the matter of State of Rajasthan v. Umrao Singh², Their Lordships of the Supreme Court have clearly held that dependents having accepted the appointment as LDC on compassionate ground, the

1(1994) 4 SCC 448

2(1994) 6 SCC 560

right to be considered for appointment on compassionate ground was consummated and no further consideration on compassionate ground would ever arise, otherwise it would be a case of “endless compassion”.

11. Gokul had three sons namely, Malejram, Kaleshram and Rohit and the land bearing khasra Nos. 446/2, 457 and 448/3 was recorded in revenue records in the joint names of Malejram, Kaleshram and Rohit. Admittedly, the said lands were subjected to acquisition for the purpose of construction of Champa bypass railway line. The land bearing khasra Nos. 446/2, 457 and 448/3 was jointly recorded in the names of Malejram, Kaleshram and Rohitram in Rin Pustika No.0255962 (revenue document issued under the Chhattisgarh Land Revenue Code), whereas the land bearing khasra No.436 was also jointly recorded in the names of above-stated three persons i.e. Malejram, Kaleshram and Rohitram in Rin Pustika No.0255961, as that land belongs to the aforesaid three persons. Against acquisition of land bearing khasra Nos. 446/2, 457 and 448/3, which is the land recorded in names of aforesaid three persons in Rin Pustika No. 0255962, claim of one Karan Kumar, S/o Shri Kaleshram, one of the co-owners, has already been considered and he has been granted employment on 5.7.2012 and thereafter, respondent No.2 claimed employment against acquisition of land bearing khasra No.436 as per circular dated 13.10.2010, which was rejected by the Railways on the ground that employment has already been given to Karan Kumar, S/o Shri Kaleshram.

12. Clause 2(i) of the circular dated 13.10.2010 clearly provides that only one job shall be offered to an applicant from the land loser family. In the instant case, though khasra No.436 is the land held by three persons as co-owners jointly recorded in their names in separate Rin Pustika, but it is not

in dispute that one of the members of family i.e. Karan Kumar, S/o Kaleshram has already been provided employment against acquisition of their land bearing khasra Nos. 446/2, 457 and 448/3. Both lands were jointly belonged to three persons situated in the same village and they have been subjected to acquisition. The object of the circular dated 13.10.2010 is to grant employment to one member of the family whose land has been subjected to acquisition, as they are land losers. It is not regular source of appointment. Merely because two different portions of land have been acquired from their joint holdings owned and subject matter of two Rin Pustika which form part of two separate holdings managed by them, they would be considered as one and all for employment as per scheme as they belong to joint family of three persons named above and one of the members of the family namely Karan Kumar has already been provided employment by the Railways on 5.7.2012. The criteria is to provide job to one member of the family. The scheme is not to grant employment in respect of each of the land which they own. If the interpretation made by the Tribunal and projected by learned counsel for respondents No.1 and 2 is accepted, then the person having ten holdings recorded separately, for each of them he or his family member will be entitled for employment. Even otherwise, the scheme also provided that once an offer of appointment has been made, no further application claiming appointment on the ground of acquisition of the same piece of land shall be entertained, though in the instant case, piece of land is different, but they belong to the same family and it is jointly owned by them and once one of the members of family has been granted employment, respondent No.2 is not entitled for further consideration, which has rightly been held so by the Railways, as such, the Tribunal has committed illegality

in setting aside the order passed by the Railways.

13. We are unable to accept the view taken by learned Tribunal in the light of the finding recorded hereinabove. We are also unable to sustain the impugned order. Accordingly, we set aside the impugned order passed by learned Tribunal and the Original Application filed by respondents No.1 and 2 would stand dismissed.

14. The writ petition is allowed to the extent indicated hereinabove.
No cost(s).

Sd/-

(P.R.Ramchandra Menon)
Chief Justice

Sd/-

(Sanjay K.Agrawal)
Judge

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No.1439 of 2018

Petitioners

Union of India and others

Versus

Respondents

Malejram and others

(English)

Land loser family is entitled for consideration for employment once as per policy of the Union of India.

(हिन्दी)

भारत संघ की नीति के अनुसार परिवार जिसने अपनी भूमि खो दी है वह एक बार नियोजन के लिये विचार किये जाने हेतु पात्र है।