

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2879 of 2019**

1. Union of India-Through the Secretary, Railway Board, Ministry of Railways, Rail Bhawan, Raisena Road, New Delhi-110001
2. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh-495004
3. Senior Divisional Personnel Officer, South East Central Railway, Raipur, Chhattisgarh-492008
4. Assistant Personnel Officer, South East Central Railway, Raipur, Chhattisgarh-492008

---- Petitioners

Versus

- E. Gopi Krishna, S/o Late E. Shrinivas Rao, aged about 40 years, presently working as Loco Pilot (Goods), SECR/RPR, R/o Qtr. No. 10/2059, Shivanand Nagar, Sector 4, Raipur-492008

---- Respondent

For Petitioners : Shri R.K. Gupta, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Order on Board**Per P. R. Ramachandra Menon, Chief Justice****09.12.2019**

1. This case arises from the verdict passed by the Central Administrative Tribunal Jabalpur, Bench Jabalpur (for short, 'Tribunal') in Original Application No. 203/00808/2015.

2. The gist of the contentions is with regard to the course of action pursued by the Tribunal in setting aside the notification with reference to the law declared by the Constitution Bench of the Apex Court in ***M. Nagraj and Others vs. Union of India and Others*** reported in (2006) 8 SCC 212. In fact, the Original Application was filed with the following prayers:

“8.1 That, the learned Tribunal may kindly be please to call the entire records pertaining to the case of the applicants.

8.2 That, the Hon'ble Tribunal may kindly be pleased to quash the notification no. 09/2014 dated 04.12.2014 Annexure A/1 to the extent that it provides reservation of 2 vacancies for the SC candidates to the post of Chief Loco Inspector.

8.3 That, the Hon'ble Tribunal may kindly be pleased to direct the respondents to conduct the selections to the post of Chief Loco Inspector strictly as per merit and without reserving seats for SC/ST candidates.

8.4 Cost of the petition be awarded to the applicants.

8.5 Any other relief which the learned Tribunal deems fit and proper may be awarded.”

By virtue of the law declared by the Apex Court in ***M. Nagraj's*** case (supra) quantifiable data had to be collected before proceeding with further steps in connection with the reservation in promotion. The Tribunal accepted the case put up before the Tribunal and accordingly, placing reliance on the above verdict, the notification came to be set aside.

3. With reference to the factual data projected before this Court, it is stated by the learned standing counsel for the Petitioner/Central Government that the post concerned is that of 'Chief Loco Inspector', which is being filled up on a divisional basis. Dispute is in respect of Raipur Division where there are as many as 42 sanctioned posts, of which 17 stand filled up. A notification was issued way back in the year 2014 for filling of 'four' posts, two unreserved and two reserved for Schedule Caste. This notification was subjected to challenge before the Tribunal on the ground of non-collection of quantifiable data, which

plea came to be accepted and the notification was set aside; which is subjected to challenge in the present writ petition.

4. The learned counsel for the Petitioners submits that, after passing the said verdict by Tribunal on 22.07.2018, the dictum laid down by the Constitution Bench of the Apex Court in **M. Nagraj's** case (supra) came to be considered again by the another Constitution Bench in **Jarnail Singh and Others vs. Lachhmi Narain Gupta and Others** reported in **(2018) 10 SCC 396** and as per the verdict passed on 26.09.2018, the Court made some observations with regard to the collection of quantifiable data in the matter of giving reservation for promotion, as given 'paragraph 24', with reference to the law already declared by a '9 Judges Bench' in **Indra Sawhney and Others vs. Union of India and Others** reported in **1992 Supp. (3) SCC 217**. Though, the Constitution Bench held that the creamy-layer principle would continue to govern the field, the observations and declaration made with reference to **Indira Sawhney's** case (supra) in the matter of ascertaining the backwardness in the community stands and that the Petitioners are taking appropriate steps to have the proceedings finalized in the light of the law declared by the Apex Court.
5. The crux of the submission is to the effect that the grievance now projected before this Court is not pressed and the matter will be dealt by the Department at their level. This submission is recorded. The matter is disposed off as not pressed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge