

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 9816 of 2019****Judgment reserved on 04.12.2019****Judgment delivered on 17.12.2019**

1. Samyukta Khadan Mazdoor Sangh through Sri M.R. Sahu, S/o Ram Lal Sahu, aged about 65 Years, Secretary, R/o- Post Office Dagar SKMS, Bodal Jajuwal Mines, Ambagarh Chowki, Rajnandgaon, District : Rajnandgaon, Chhattisgarh
2. Shri E.L. Sahai Vice President, SKMS, Bodal Jauwal Mines, Ambagarh Chowki, Rajnandgaon, Chhattisgarh. **-----Petitioners.**

**VERSUS**

1. Union of India through Secretary, Ministry of Labour, Government of India, New Delhi.
2. The Regional Directory Atomic Mineral Division, Western Region, Nagpur

**-----Respondents**


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| For Petitioners    | : | Ms. Priya Mishra, Advocate                    |
| For Respondent-UOI | : | Mr. B.Gopa Kumar, Assistant Solicitor General |

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**Hon'ble Shri P.R. Ramachandra Menon, Chief Justice****Hon'ble Shri Parth Prateem Sahu, Judge****CAV Order****Per Parth Prateem Sahu, J.**

1. Dismissal of transferred application of Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting, Bilaspur, *vide* its order dated 16-07-2019 made the petitioners to approach this Court by filing this writ petition under Article 226 of the Constitution of India.
2. Petitioner No. 1 is a union represented through Secretary and petitioner No. 2 is Vice-President to petitioner No. 1. The workers of the 1<sup>st</sup> petitioner-Union were terminated due to Mine closure who were engaged at Bodal Project at Rajnandgaon district, department of Atomic Energy, Government of India, therefore, they have filed Miscellaneous Petition No. 3393/1989 before Madhya Pradesh High Court, Jabalpur Bench. The said petition came to be

dismissed *vide* its order dated 30-06-1989, by observing that the petitioners can well raise an Industrial dispute in this regard. The order passed in the said Miscellaneous petition by the Madhya Pradesh High Court was challenged before the Hon'ble Supreme Court in Civil Appeal No. 2479/1994 and the Hon'ble Supreme Court allowed the appeal and held that the Atomic Energy Commission is not an industry within the meaning of the Industrial Dispute Act and therefore the question making applicants to seek reference does not arise. The Hon'ble Supreme Court after considering the facts of the case, set aside the order of High Court and remitted the matter to decide the case in accordance with law.

3. When, the said writ petition came up for hearing, the learned Single Judge considering the subject in issue has held that, the appropriate forum for deciding the *lis*, under the facts and circumstances, would be the Central Administrative Tribunal and transferred the case to the Central Administrative Tribunal, Jabalpur (Madhya Pradesh), requested to hear the matter at Camp Court at Bilaspur (Chhattisgarh). This is how the case came up for hearing before Central Administrative Tribunal, Jabalpur (Madhya Pradesh), circuit sitting Bench, Bilaspur, Chhattisgarh and after considering the facts and issue involved in the transferred application, also considering the submissions made by the learned counsel for the parties, the Central Administrative Tribunal dismissed the transferred application. Tribunal recorded that the respondents have made endeavor to absorb as many persons, who became rendered surplus due to Mines closure to get alternate employment, subject to those, who were qualified, meeting the criteria of the Government of India for such employment, given employment at different units of the Department. All others, who could not get employed, have been offered compensation, which was accepted by 42 workers and only 40 daily rated workers refused to accept the retrenchment compensation. The Tribunal further recorded that the applicants/ petitioners failed to substantiate their submissions/ pleadings made

in the application with respect to their averment that they have been superseded by their juniors.

4. Learned counsel for the petitioners submits that the employees/ workers of 1<sup>st</sup> petitioner-Union were employed at Bodal project which is a project of Department of Atomic Energy, and if, any of the project came to be closed for one or the other reasons then the workers ought to have been accommodated in another project/ Union running by the Department, in different parts of India. She also submitted that the workers who had joined much later and were junior to them, have been provided alternate employment but the employees/ workers of 1<sup>st</sup> petitioner-Union arbitrarily and illegally have not been provided alternate employment. She also submits that the employees/ workers of 1<sup>st</sup> petitioner-Union must be given alternate appointment on priority basis than to the juniors.
5. Per contra, learned counsel appearing for the Union of India pointing out to the paragraphs of the impugned order passed by the Central Administrative Tribunal submits that the grounds raised by the learned counsel for the petitioners have already been considered and rejected by the reasoned order. Learned counsel also points out that the Central Administrative Tribunal has recorded a finding that for providing alternate employment to the employees/ workers who became surplus due to Mines closure have been provided alternate employment by the selection committee after considering the qualification of all the employees/ workers who became qualified by meeting the criteria fixed by the Government of India and those who could not selected and could not get employment have been granted retrenchment

compensation, therefore, there is no error in the order passed by the Central Administrative Tribunal.

6. We have heard learned counsel on both the sides and perused the records with utmost circumspection.
7. Reverting back to the facts of the case, it is the case of the petitioners themselves that the cause of action arises for filing of the writ petition in on account of closure of Bodal project Mines of the respondent-Department at Rajnandgaon district. Out of the total workers, some of them became successful to get alternate employment on the basis of their selection by the selection committee, looking to their merits, considered by the selection committee and rest of them have been offered retrenchment compensation. The petitioners in the writ petition have not raised any ground challenging the order passed by the Central Administrative Tribunal wherein the Central Administrative Tribunal has recorded a finding that alternate employment was provided to the workers after evaluating their merits by the selection committee, but it has only been pleaded that the respondent-Department has not applied the principle of 'first come- last go', the other workers ought to have been employed or provided alternate employment on parity and raised the ground of legitimate expectation. It is not in dispute that the workers employed by the respondent-Department in Bodal project were daily rated workers as mentioned in paragraph-4.4 of the impugned order of Central Administrative Tribunal. Daily rated workers do not have any vested right to get themselves absorb as a permanent employees. The finding recorded by the Central Administrative Tribunal that alternate employment has been provided to some of the workers only on merits who were qualified and became eligible on the assessment made by the selection committee, the payment of compensation is also not disputed by the petitioners, but learned counsel for the petitioners argued that other employees/ workers have

accepted the compensation but a group of employees who were contesting the case have not accepted the retrenchment compensation.

8. Looking to the facts and events available on record and on considering the reasoning and rationale given by the Central Administrative Tribunal in its impugned order, we do not find any infirmity or perversity calling interference with the impugned order passed by the Central Administrative Tribunal under supervisory jurisdiction of this Court. The writ petition being devoid of any substance is liable to be and hereby dismissed. However, the employees/workers of the 1<sup>st</sup> petitioner-Union who had not accepted retrenchment compensation can make an application before the competent authority for releasing the amount of compensation in their favour, if pending.

Sd/-  
**(P.R. Ramachandra Menon)**  
Chief Justice

Sd/-  
**(Parth Prateem Sahu)**  
Judge