



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 5467 OF 2023

as s/o Mallesh Yengulwar and another vs. Union of India, thr Ministry of Coal, New Delhi and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. S.M. Tripathi, Advocate for petitioners.
Mr. P.V. Ghare, Advocate for respondent Nos. 2 to 4.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**
DATED : 28-11-2024

Heard Ms. Tripathi, learned Counsel for petitioners and
Mr. Ghare, learned Counsel for respondent Nos. 2 to 4.

2. The petition questions the denial of employment to petitioner no. 2, who is the brother of the petitioner no. 1 whose land has been acquired in terms of the Rehabilitation and Resettlement Policy of Coal India Limited, 2012 ("R&R Policy") of the WCL, on the ground that major brother is not included in the definition of family as denied in Clause 4 (b) of the R&R Policy which definition includes a minor brother.

3. Ms. Tripathi, learned Counsel for the petitioners submits that this leads to an incongruent situation where though on account of inclusion of a minor brother in the definition of family, the minor brother, on account of his minority, not being permitted to be granted employment, is placed on a live roster, and granted employment when he attains majority, a major brother, whose relationship is not disputed, would not be considered for grant of employment.

4. Mr. Ghare, learned Counsel for the respondents does not dispute the above position. It is however, his contention, that since the definition of family does not include a brother but only a minor brother, in terms of the language used in Clause 4(b) of the R&R Policy, the same cannot be equated with a major brother.

5. The definition of family as contained in the R&R Policy, is as under:

(b)"family' includes a person, his/her spouse, son including minor sons, dependent daughters minor brothers, unmarried sisters, father, mother residing with him or her and dependent on him/her for their livelihood, and includes "nuclear family" consisting of a person, his/her spouse and minor children. Provided that where there are no male dependents, the benefit due to a land loser may devolve on dependent daughter nominated by the land loser.

A perusal of the abovesaid definition of family would indicate that a minor brother of the person whose land has been acquired, by the WCL, is considered eligible for the purpose of grant of employment. Mr. Ghare, learned Counsel for the respondents does not dispute, that in terms of the law applicable, a minor brother cannot be granted employment and on account of this, he is put on a live roster, which is operated immediately upon his attaining majority and the employment is then granted to such person.

6. If this is the case, then the mere fact that the nomination of the minor brother is there by the person, whose land has been acquired, for the purpose of grant of employment, cannot be a differentiating factor, for denying the brother employment under the same policy, as even

considering the definition of family as indicated in clause (b) above and the fact, that the employment is to be granted only upon attaining majority, the situation of both the person would be identical.

7. The contention of Mr. Ghare, learned counsel for the respondents that in view of clause 8 of the agreement dated 19.5.2020, (page No.33) between the petitioners and the respondents, the petitioner would be estopped from disputing the definition of family as contained in the R&R policy is of no consequence, as we have already considered the said definition as indicated above.

8. In that view of the matter, we do not see any reason, why the brother ought not to be held to be a person included in the definition of family as defined in clause 4(b) of the R&R Policy. In that view of the matter, the denial of employment to the brother on the above ground, is clearly not justified. We therefore, direct the respondents, to consider the representation of the petitioners, in light of the above finding and take an appropriate decision within two weeks from today. The petition is accordingly allowed in the above terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)