

(2020) 03 CHH CK 0088
In the Chhattisgarh High Court
Case No : WPS No. 1712 Of 2020

South East Central Railway And Ors

APPELLANT

Vs

Jivrakhan Rathore

RESPONDENT

Date of Decision : 13-03-2020

Acts Referred:

Constitution Of India, 1950 — Article 227

Citation : (2020) 03 CHH CK 0088

Hon'ble Judges : Prashant Kumar Mishra, J;Gautam Chourdiya, J

Bench : Division Bench

Advocate : H.S. Ahluwalia

Final Decision : Allowed

Judgement

@JUDGMENT-JUDGMENT

Prashant Kumar Mishra, J

1. The order passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sittings, Bilaspur allowing the original application preferred by respondent - Jivrakhan Rathore, is under challenge in this petition.

2. The tribunal has referred to its earlier judgment in O.A. No.203/00929/2014 decided on 28.11.2017 which has been affirmed by this Court in WPS No.1349/2018 in the matter of South East Central Railway and others vs. Yashvant and others decided on 03.04.2018.

3. In the matter of Yashvant (Supra) this Court has passed the following order in paragraphs 3 and 4:-

"3. It is not in dispute that no members 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 WPS No. 1712 of 2020 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 person 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 not 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."

4. In the case at hand also, the respondent is the grandson of WPS No. 1712 of 2020 the land holder whose land was acquired by the Railways for construction of Champa bypass railway line project. The respondent claims benefit of rehabilitation scheme applicable to the subject project and sought employment in lieu of acquisition. The said prayer has been allowed by the tribunal relying upon the order passed by this Court in the matter of Yashvant (Supra).

5. Having heard learned counsel for the petitioner and on perusal of the papers available on the record particularly the order passed by this Court in Yashvant (Supra), we are not inclined to interfere with the impugned order as the issue involved in the writ petition is squarely covered having been decided by this Court in Yashvant (Supra).