

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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Date of order: This the 16th Day of March, 2020.

Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member



O.A. 350/1313/2019 (Heard on 03.12.2019)

Rintu Mondal & Ors.Vs..... E.Railways

Mr. B.K.Roy.....Counsel for the applicants

Mrs. T.P.Sinha.....Counsel for the respondents

O.A. 350/887/2014 (Heard on 03.12.2019)

Syed Monibur Rahim & Ors.....Vs..... S.E.Railways

Ms. Bulbul Sarbjna.....Counsel for the applicants

Ms. D.Choudhury.....Counsel for the respondents

O.A. 350/1489/2014 (Heard on 03.12.2019)

Balaram GayenVs..... S.E.Railways

Mr. N.Roy.....Counsel for the applicant

Ms. S.Choudhury.....Counsel for the respondents

O.A. 350/159/2016 (Heard on 03.12.2019)

Subhas Ch. Bera & Ors.Vs..... S.E.Railways

Mr. B.Chatterjee.....Counsel for the applicants

Mr. D.Choudhury.....Counsel for the respondents

O.A. 350/181/2016 (Heard on 03.12.2019)

Sudip Khutia.....Vs..... S.E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

Mr. A.K.Datta.....Counsel for the respondents

O.A. 350/330/2016 (Heard on 03.12.2019)

Abhijit Santra & Ors.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. R.Sharma.....Counsel for the respondents

O.A. 350/639/2016 (Heard on 03.12.2019)

Sanjoy Kumar Kala.....Vs..... S.E.Railways

Ms. S.Roy/Mr.M.Roy.....Counsel for the applicant

Mr. S.Banerjee.....Counsel for the respondents



O.A. 350/1192/2016 (Heard on 03.12.2019)

Sk. Golam Hossain & Ors.....Vs..... S.E.Railways

Mr. Syed S. Arefin.....Counsel for the applicants

Ms. D.Nag.....Counsel for the respondents

O.A. 350/1227/2016 (Heard on 03.12.2019)

Sk. Alamin HossainVs..... S.E.Railways

Mr. A.Chakraborty.....Counsel for the applicant

Mr. B.Manot.....Counsel for the respondents

O.A. 350/1228/2016 (Heard on 03.12.2019)

Khadija Khatun Bibi.....Vs..... S.E.Railways

Mr. A.Chakraborty.....Counsel for the applicant

Ms. D. Das Banerjee....Counsel for the respondents

O.A. 350/1376/2016 (Heard on 03.12.2019)

Partha Sarathi Mal & Anr.....Vs..... S.E.Railways

Mr.B.Chatterjee/Mr.U.N.Betal.....Counsel for the applicants

xxxxxxxxxxxx.....Counsel for the respondents

O.A. 350/1586/2016 (Heard on 03.12.2019)

Noor Banu Khatun & AnrVs..... S.E.Railways

Mr. P.Guria.....Counsel for the applicant

Mr. D.Choudhury.....Counsel for the respondents

O.A. 350/1587/2016 (Heard on 03.12.2019)

Farida Bibi & AnrVs..... S.E.Railways

Mr. P.Guria.....Counsel for the applicant

Ms. S.Choudhury.....Counsel for the respondents

O.A. 350/1713/2016 (Heard on 03.12.2019)

Sangita MukherjeeVs..... S.E.Railways

Mr. D.Bhaduri.....Counsel for the applicant

Ms. D.Nag.....Counsel for the respondents



O.A. 350/1714/2016 (Heard on 03.12.2019)

Jahangir Chowdhury & Ors.Vs..... S.E.Railways

Mr. D.Bhaduri.....Counsel for the applicant

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/1731/2016 (Heard on 03.12.2019)

Sraboni Laha Kundu & Anr.....Vs..... E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/1764/2016 (Heard on 03.12.2019)

Sankar Das & Ors.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/1765/2016 (Heard on 03.12.2019)

Nakul Bag & Ors.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/1766/2016 (Heard on 03.12.2019)

Chittaranjan Mondal & Anr.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. R.Sharma.....Counsel for the respondents

O.A. 350/1773/2016 (Heard on 03.12.2019)

Prabir Maity.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. B.Manot.....Counsel for the respondents

O.A. 350/1822/2016 (Heard on 03.12.2019)

Debi Prasad Ruidas & Ors.....Vs..... S.E.Railways

Mr. S.K.Datta/Mr. A.Banerjee.....Counsel for the applicants

Mr. R.Sharma.....Counsel for the respondents



O.A. 350/1823/2016 (Heard on 03.12.2019)

Chandi Das Khan & Ors.....Vs..... S.E.Railways

Mr. S.K.Datta/Mr. A.Banerjee.....Counsel for the applicants

Ms. S.Choudhury.....Counsel for the respondents

O.A. 350/1824/2016 (Heard on 03.12.2019)

Kalam Ali Mondal.....Vs..... S.E.Railways

Mr. S.K.Datta/Mr. A.Banerjee.....Counsel for the applicant

Mr. B.Manot.....Counsel for the respondents

O.A. 350/67/2017 (Heard on 03.12.2019)

Ashis Das & Ors.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/68/2017 (Heard on 03.12.2019)

Joydeb Kajli & Ors.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicants

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/69/2017 (Heard on 03.12.2019)

Sk. Ilyas.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicant

xxxxxxxxxxxxx.....Counsel for the respondents

O.A. 350/75/2017 (Heard on 03.12.2019)

Sudarshan Mal.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicant

Ms. G.Roy.....Counsel for the respondents

O.A. 350/540/2017 (Heard on 03.12.2019)

Madhusudan Das.....Vs..... S.E.Railways

Ms. M.Roy Dey/Mr. G.Acharya.....Counsel for the applicant

Mr. A.K.Datta.....Counsel for the respondents



O.A. 350/541/2017 (Heard on 03.12.2019)

Kinkori Bhunia.....Vs..... S.E.Railways

Ms. M. Roy.....Counsel for the applicant

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/626/2017 (Heard on 03.12.2019)

Dulal Chandra Gayen.....Vs..... S.E.Railways

Mr. R.Manna/Ms. M. Sinha.....Counsel for the applicant

Mr. B.Manot.....Counsel for the respondents

O.A. 350/627/2017 (Heard on 03.12.2019)

Snehalata Garu.....Vs..... S.E.Railways

Mr. R.Manna/Ms. M. Sinha.....Counsel for the applicant

Mr. S.Banerjee.....Counsel for the respondents

O.A. 350/772/2017 (Heard on 03.12.2019)

Amitava Khanra & Ors.....Vs..... S.E.Railways

Mr. B.Chatterjee.....Counsel for the applicants

Ms. G.Roy.....Counsel for the respondents

O.A. 350/821/2017 (Heard on 03.12.2019)

Anusuya KangsabanikVs..... E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

xxxxxxxxx.....Counsel for the respondents

O.A. 350/907/2017 (Heard on 03.12.2019)

Sruti Kumar Bera & Anr.....Vs..... S.E.Railways

Mr. U.N.Betal.....Counsel for the applicants

xxxxxxxxxx.....Counsel for the respondents

O.A. 350/908/2017 (Heard on 03.12.2019)

Soma BeraVs..... S.E.Railways

Mr. U.N.Betal.....Counsel for the applicant

Mr. A.K.Datta.....Counsel for the respondents



O.A. 350/909/2017 (Heard on 03.12.2019)

Sital Prasad Sau.....Vs..... S.E.Railways

Mr. U.N.Betal.....Counsel for the applicants

Mr. R.Sharma.....Counsel for the respondents

O.A. 350/1381/2017 (Heard on 03.12.2019)

Pabitra Kumar Das.....Vs..... S.E.Railways

Mr. P.C.Das/Ms. T.Maity.....Counsel for the applicant

Ms. A.Basu.....Counsel for the respondents

O.A. 350/1384/2017 (Heard on 03.12.2019)

Ashis Kumar Bera.....Vs..... S.E.Railways

Mr. U.N.Betal.....Counsel for the applicant

xxxxxxxxxxxxxxxxxx.....Counsel for the respondents

O.A. 350/1533/2017 (Heard on 03.12.2019)

Pritam Jana.....Vs..... S.E.Railways

Ms. S.Roy/Mr. M.Roy.....Counsel for the applicant

Mr. P.Prasad.....Counsel for the respondents

O.A. 350/1664/2017 (Heard on 03.12.2019)

Santu Chaudhury & Anr.....Vs..... S.E.Railways

Ms. S.Das.....Counsel for the applicant

Mr. R.K.Shah.....Counsel for the respondents

O.A. 350/1727/2017 (Heard on 03.12.2019)

Pranata Kumar Jana.....Vs..... S.E.Railways

Ms. S.Roy.....Counsel for the applicant

Mr. P.Prasad.....Counsel for the respondents

O.A. 350/1693/2017 (Heard on 03.12.2019)

Papia Jana.....Vs..... S.E.Railways

Ms. S.Roy.....Counsel for the applicant

Mr. R.Sharma.....Counsel for the respondents



O.A. 350/1708/2017 (Heard on 03.12.2019)

Raghupati Jana.....Vs..... S.E.Railways

Ms. S.Roy.....Counsel for the applicant

Mr. R.Sharma.....Counsel for the respondents

O.A. 350/1755/2017 (Heard on 03.12.2019)

Subhas Barman & Ors.Vs..... N.F.Railways

Mr. K.S.Alam.....Counsel for the applicants

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1756/2017 (Heard on 03.12.2019)

Parimal Talukdar & Ors.Vs..... N.F.Railways

Mr. K.S.Alam.....Counsel for the applicants

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1757/2017 (Heard on 03.12.2019)

Gopal Barman & Ors.Vs..... N.F.Railways

Mr. K.S.Alam.....Counsel for the applicants

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1758/2017 (Heard on 03.12.2019)

Arjun Sarkar & Ors.Vs..... N.F.Railways

Mr. K.S.Alam.....Counsel for the applicants

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1764/2017 (Heard on 03.12.2019)

Vivek KeshriVs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/1765/2017 (Heard on 03.12.2019)

Sukumar DuttaVs..... E.Railways

Mr. N.Roy/T.Manna.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents



O.A. 350/1778/2017 (Heard on 03.12.2019)

Salauddin ChistiVs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/1779/2017 (Heard on 03.12.2019)

Md. NasiruddinVs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/56/2018 (Heard on 03.12.2019)

Subhra Prakash Laha & AnrVs..... E.Railways

Mr. N.Roy.....Counsel for the applicants

xxxxxxxx.....Counsel for the respondents

O.A. 350/293/2018 (Heard on 03.12.2019)

Md. Abdul AlimVs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

xxxxxxxx.....Counsel for the respondents

O.A. 350/294/2018 (Heard on 03.12.2019)

Md. MisbahajjamanVs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

xxxxxxxx.....Counsel for the respondents

O.A. 350/295/2018 (Heard on 03.12.2019)

Narendra Nath ChatterjeeVs..... E.Railways

Mr. N.Roy/Mr. T.Manna.....Counsel for the applicant

xxxxxxx.....Counsel for the respondents

O.A. 350/473/2018 (Heard on 03.12.2019)

Souvik Nandi & Ors.....Vs..... E.Railways

Mr. N.Roy.....Counsel for the applicants

Mr. S.K.Das.....Counsel for the respondents



O.A. 350/477/2018 (Heard on 03.12.2019)

Hemanta Kumar Roy & Ors.....Vs..... N.F.Railways

Mr. K.S.Kalam.....Counsel for the applicants

Ms. G.Roy.....Counsel for the respondents

O.A. 350/810/2018 (Heard on 03.12.2019)

Himadri Kundu & Ors.....Vs..... E.Railways

Mr. N.Roy.....Counsel for the applicants

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/1013/2018 (Heard on 03.12.2019)

Suvendu Manna.....Vs..... S.E.Railways

Mr. B.Bhushan.....Counsel for the applicant

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1069/2018 (Heard on 03.12.2019)

Papiya Das.....Vs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/1070/2018 (Heard on 03.12.2019)

Bijoy Sarkar.....Vs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents

O.A. 350/384/2019 (Heard on 03.12.2019)

Arup Mondal & Ors.....Vs..... E.Railways

Ms. S.Das.....Counsel for the applicants

Mr. D.Basak.....Counsel for the respondents

O.A. 350/730/2018 (Heard on 03.12.2019)

MA 852/2019

Sima Barui.....Vs..... E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

Mr. S.K.Das.....Counsel for the respondents



O.A. 350/1055/2019 (Heard on 03.12.2019)

Chinmoy Maity.....Vs..... E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

Mr. P.Bajpayee.....Counsel for the respondents

O.A. 350/1056/2019 (Heard on 03.12.2019)

Dinonath Mondal.....Vs..... E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

Mr. P.Bajpayee.....Counsel for the respondents

O.A. 350/185/2017 (Heard on 03.12.2019)

Chandana Bhowmick Khanra.....Vs..... S.E.Railways

Mr. B.Chatterjee.....Counsel for the applicant

Ms. D Ghosh Dastidar....Counsel for the respondents

O.A. 350/74/2016 (Heard on 03.12.2019)

MA 633 & 634 of 2017

Manoranjan Dey & Ors.....Vs..... S.E.Railways

Ms. S.Chakraborty/Mr. N.Roy.....Counsel for the applicant

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1527/2014 (Heard on 04.12.2019)

Saranan Gayen & Anr.....Vs..... S.E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. R.Sharma.....Counsel for the respondents

O.A. 350/490/2017 (Heard on 05.12.2019)

Partho GhoshVs..... E.Railways

Mr. B.Das.....Counsel for the applicant

Mr. M.K.Das/S.K.Das/S.K.Pal....Counsel for the respondents

O.A. 350/491/2017 (Heard on 05.12.2019)

Anirban RoyVs..... E.Railways

Mr. B.Das.....Counsel for the applicant

Mr. M.K.Das/S.K.Das/S.K.Pal....Counsel for the respondents



O.A. 350/492/2017 (Heard on 05.12.2019)

Madhumita MondalVs..... E.Railways

Mr. B.Das.....Counsel for the applicant

Mr. M.K.Das/S.K.Das/S.K.Pal....Counsel for the respondents

O.A. 350/493/2017 (Heard on 05.12.2019)

Ashish NathVs..... E.Railways

Mr. B.Das.....Counsel for the applicant

Mr. M.K.Das/S.K.Das/S.K.Pal....Counsel for the respondents

O.A. 350/292/2017 (Heard on 06.12.2019)

Bijoy Panda @ Kamala Kanta Panda & Anr.....Vs..... S.E.Railways

Mr. P.Guria.....Counsel for the applicant

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1032/2019 (Heard on 06.12.2019)

Raj Kumar Nandi & Ors.....Vs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Ms. C.Mukherjee.....Counsel for the respondents

O.A. 350/1744/2018 (Heard on 17.12.2019)

Sabina Yasmin.....Vs..... S.E.Railways

Mr. T.K.Biswas.....Counsel for the applicant

Ms. G.Roy.....Counsel for the respondents

O.A. 350/1175/2017 (Heard on 09.01.2020)

Serajul Mallick & Anr.....Vs..... S.E.Railways

Mr. P.Guria/Sk. R.Alam.....Counsel for the applicant

Mr. R.K.Gupta.....Counsel for the respondents

O.A. 350/123/2017 (Heard on 16.03.2020)

MA 1002/2019

Kazi Md. Montakim.....Vs..... E.Railways

Mr. N.Roy.....Counsel for the applicant

Mr. P.Bajpayee.....Counsel for the respondents



ORDER (ORAL)

BIDISHA BANERJEE, MEMBER (J)

The applicants in all these O.As. claim to have lost their land to the Railways for construction of various Railway Projects, namely Dankuni-Furfura Sharif, Arambag-Bowai Chandi, Nandigram etc. Their claim for employment assistance as land loser in terms of Board's Policy as in RBE 99 of 2010, have been turned down under various pretexts. Due to parity in the nature of grievance, facts pleaded, relief claimed, these cases heard out upon due notice and with consent of all the sides to be disposed of by a common order.

For the sake of brevity, O.A. No. 1823/2016 is being delineated and discussed hereunder.

O.A. No. 1823/2016

The applicants, 22 in numbers, have preferred this O.A to seek the following reliefs.

"(a) An order to cancel and/or withdraw and/or rescind of the order dated 17th March, 2016 passed by the Learned Tribunal.

(b) To direct the respondents to issue letter of appointment to the applicants forthwith without any further delay.

(c) An order holding that the denial of consideration of the applicants for employment under the land loser's scheme is totally arbitrary, discriminatory and illegal.

(d) An order directing the respondents to grant employment to the applicants in terms of the scheme and in the manner other similarly placed land losers have been granted employment vide Annexure A-9 to this application.

(e) An order directing the respondents to produce/cause production of all relevant records.

(f) Any other order or further order/orders as to this Hon'ble Tribunal may deem fit and proper.

(g) An order leave may be granted Rule 4(5)(a) of the CAT(Procedure) Rules 1987 to move this application jointly."



2. An M.A bearing No.213/2017 arising out of this O.A has been filed by the applicants praying for liberty to jointly pursue this application under Rule 4(5) (a) of CAT (Procedure) Rules, 1987. On being satisfied that the applicants share common interest and are pursuing a common cause of action, they are permitted to jointly pursue this O.A. subject to payment of individual court fees. The M.A is disposed of accordingly.

3. The applicants claim that pursuant to a notification dated 27th August, 2010 for acquiring land for Bowaichandi – Arambag New Railway Line Project, their lands were acquired by the Railway Administration and a meager compensation was awarded to them. Many land owners including the family of the applicants of the present original application have lost their land for construction of the Railway Project. In terms of the Railway Board's Circular, RBE 99 of 2010 dated 16th July, 2010, the applicants were entitled to employment in addition to compensation, but employment was not provided to them. Aggrieved as such, they approached this Tribunal by filing O.A.No. 711 of 2015 which was disposed of by an order dated 17.06.2015 to screen them for employment. Since the order was not complied with, the applicants served a notice for contempt, whereafter their claim was turned down by a communication dated 17.03.2016. Being aggrieved thereby the applicants filed a

contempt application which was dismissed as a Speaking Order stood already issued to them. They were granted liberty to file proceeding as per law before appropriate forum. A Writ Petition was filed before the Hon'ble High Court at Calcutta against the order but the same was dismissed and, as such, the applicants beg to approach this Hon'ble Tribunal by filing the instant application for the ends of justice.



4. The respondents while admitting their claim have averred as under :

In order to execute Bowaichandi Arambag Special New B.G.Line Project under the provisions of Railway (Amendment) Act, 2008, Railway administration acquired land from the owners. But as per Railway Board's Circular No.E(NG)II/2011/RC-5/1 dated 28.09.2010, the applicants of instant OA have not been extended employment assistance under Land Loser Scheme. The Bowaichandi -Arambag Special New B.G.Railway Line project was sanctioned long back. In order to execute the project, land was acquired by the Railway Administration and Compensation in enhanced market rate was paid to the land losers, the present applicants at the material time. However, progress of land acquisition work involved with project was stalled at that stage as State Government of West Bengal refused to carry out land acquisition work. Consequently, no further advancement of the project could be achieved. As a result, returns from the project are not justified.

The respondents have, however, emphatically admitted that, although the project was stalled "the General Manager, South Eastern Railway accorded approval for extending employment assistance to the 28 Land Loser candidates under Land Loser Scheme in Group - 'D' category at the material time. Those land losers have been appointed and posted other than Bowaichandi Arambag Project area, since, the

project is fully stopped due to land acquisition problem on the part of State Government of West Bengal and other administrative constraints."



They have further averred that "in compliance with the CAT, Kolkata Bench order dated 17.06.2015 in O.A.No.350/00711/2015, the Railway respondents, i.e. the Chairman, Railway Recruitment Cell, South Eastern Railway on behalf of respondent No.4, had issued a Speaking Order dated 17.03.2016 to the applicants. The allegations of the petitioners that the Order was not complied are fully baseless and hence denied. The Tribunal also agreed and accordingly they disposed of the Contempt Petition(Civil) No.350/0093/2016 arising out of O.A.350/00711/2015 vide order dated 31.05.2016. The Bowaichandi - Arambag Special New B.G.Railway Line Project was sanctioned by the Central Government as a Special Railway Project in the year 2010-2011 under Railway (Amendment) Act, 2008, vide Gazette Notification S.O.No.1009(E) dated 04.05.2010. 80% of actual market value of acquired land were paid to the applicants whose lands were acquired by the Railway. The applicants accepted the said amount without any protest at the material time. It is evident that the petitioners were satisfied in accepting the amount towards compensation."

5. The applicants in support of their claim as land loser and that they have a right to seek employment as such, have placed the following :

(i) The Railway (Amendment) Act 2008 whereby Clause 37 A (for special railway project) have been inserted and the manner in which land acquisition, its notification and award of compensation is to be executed have been provided by inserting Chapter IV A to the existing Railways Act 1989 ;

(ii) The Land Loser Certificates issued to the applicants specifically certifying them as land looser, in accordance with RBE 99 (supra). One of such certificate is extracted hereunder for clarity :



SOUTH EASTERN RAILWAY					
Camp Office of the Competent Authority / I.A.R. Dy. Chief Engineer/Construction/GRC For Bowaichandi-Arambagh New Railway Line project, Scharabazar Rly. station/Scharabazar, Dist.: Burdwan-713423.					
LAND ACQUISITION UNDER RAILWAYS (AMENDMENT) ACT, 2008					
LAND LOSER CERTIFICATE					
SRP/BOW.ARA/1/3/KHURSI-3/472			Date: 02/01/2013		
Object: Bowaichandi-Arambagh new B.G. railway line					
Notification No. & Date u/s 20A(1)			1948 dt. 17.09.10, S.O. 12299(E)		
Newspaper publication of Gazette u/s 20A(1)			25.10.10 & 29.01.11		
Notification No. & Date u/s 20E(1)			1270, S.O. 1539 (E) dt. 06.07.2011		
Public notice u/s 20F(4)			13.09.11 & 26.10.11		
Certified that the plot(s) of land detailed below owned and possessed by <u>SHAMBHU</u> <u>SH. KHAN. S/o. H. SIDDHESWAR KHAN</u> of village: <u>KHAPUKUR</u> <u>TORKONA</u> , P.S. District: <u>BANKURA</u> . Has/have been acquired by the Govt. for execution of Bowaichandi-Arambagh new B.G. railway line Special Railway Project under provision of the Railways (Amendment) Act, 2008.					
Market value of the land together with the 60% of the market value as additional amount has been duly determined as the compensation for the said land and has been paid to the land owner as hereunder					
Total amount of compensation			Rs. <u>75,273/-</u> (Rupees <u>Seventy five</u> <u>thousand Two hundred and Seventy three Only</u> - only)		
Amount of compensation paid to the land owner			Rs. <u>60,219/-</u> (Rupees <u>Sixty thousand</u> <u>and nineteen Only</u> - only as the <u>80%</u> above)		
Mouja: <u>KHURSI</u>			Gram Panchayat: <u>AKUL-II</u> Sheet no. <u>3</u>		
Sr. No.	R.S. plot no.	L.R. plot no.	Acquired area of the plot (Decimal)	Share of the owner	Area acquired from the owner (Decimal)
1	2075	2075	39.2	6.25%	2.45
2	1497	1497	66.6	30.85%	20.55
Dy. C.E./GRC & Competent Authority / I.A.R. (U/s 7A of the Railway Act, 1989) For Bowaichandi-Arambagh New B.G. Railway					

(iii) RBE 99 of 2010, the Board's Circular that lays down the following :

"R.B.E. No. 99/2010

Subject: Appointment of land losers affected by land acquisition for railway projects.

(No.E(NG)II/2010/PC-5/1, dated 16.7.2010)



In supersession of all previous instructions on the subject, it has been decided that Railways may call and consider applications for employment to PB-I Pay Band of Rs.5220-20,200 with grade pay of Rs.1,800/-only, from land losers on account of acquisition of land for the projects on the Railways (excluding those for Deposit works). Applications shall be invited, by Personnel Branch of Zonal Railways, from the land losers fulfilling the screening criteria as enumerated in para 2 below.

1. 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. 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.
2. Railway administration should request the concerned Competent Authority/Land Acquisition Officer to issue certificate/s to those persons whose land has been acquired to facilitate proper verification of the claims.
3. An applicant claiming appointment shall be required to submit the application with his/her signatures and photos duly certified by local MP, MLA or any Gazetted Officer. Candidates shall also submit affidavits fulfilling eligibility criteria stipulated in para 2 above, duly certified by the Competent Authority/Land Acquisition Officer. This shall be co-ordinated by respective Divisional Railway Managers.
4. The applicant should normally fulfill the eligibility and other conditions prescribed for the post against direct recruitment quota from open market. In special cases, General Manager of the Railway can relax these conditions, and in respect of educational qualifications, applicant with read/write only capability shall also be considered.

5. General Manager of the Railway in whose jurisdiction of the land acquisition is to be undertaken, shall be responsible for ensuring a fair and transparent selection of candidates.
6. Once the offer of appointment has been made, no further application claiming appointment on ground of acquisition of the same piece of land shall be entertained.
7. These instructions normally will not be applicable in those cases where land acquisition process has been concluded by way of possession of land by Railway."



(iv) The Call Letters for screening issued to the applicants that speaks as under :

Sub: Screening of Land Losers affected by land acquisition for Special Railway Project in Gr.'D' Category:

Ref: (1) Dy. Ch. Engineer (Construction)/SER/GRC & CA/LA's Letter No. SER/CA/SRP/BOW-ARA/Appt./16 dated 04.02.2013.

(2) Chairman/RRC/GRC's Letter No. SER/P-HQ/RECTT/565/OA No. 350/00711 of 2015/204 dated 29.07.2015 in obedience to Judgement Order dated 17.06.2015 passed by the Hon'ble CAT/GAL in OA No. 350/00711 of 2015.

With reference to the above cited letters, you are provisionally allowed to appear in the Screening Test before Screening Committee to be held as detailed

Venue:-	Office of the Sr. Divl. Personnel Officer, South Eastern Railway / Adra Post: Adra, Dist: Purulia
Date:-	28.10.2015 (Wednesday)
Time:-	10:00 hrs.

(v) Subsequent Board's letter, numbered RBE 193 of 2019 on the revised policy of Railways whereby RBE 99/2010 is withdrawn, stipulates as under:

"Sub: Revision of policy regarding compensation of land losers affected by land acquisition for Railway projects.

Ref: (i) RBE No. 99/2010 dated 16.07.2010

(ii) RBE No. 120/2010 dated 13.08.2010

(iii) Railway Board's letter No. E(NG)/II/2010/RC/5/1 dated 28.09.2010.



1. On notification of Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Removal of Difficulties) Order 2015 dated 28.08.2015, provisions of RFCTLARR Act 2013 related to determination of compensation in accordance with First, Second and Third Schedules of the RFCTLARR Act 2013 have become applicable to all cases of land acquisition under the Railways Act 1989 also. This inter alia means that, irrespective of whether land acquisition for Railway projects is done through Railways Act 1989 after declaring it as a Special Railway Project or through RFCTLARR Act 2013 through State Governments, determination of compensation shall be in accordance with First, Second and Third Schedules of the RFCTLARR Act 2013.
2. The modalities for implementation of Serial No. 4 of the Second schedule of the RFCTLARR Act 2013 were examined by Ministry of Railways and it has been decided that:
 - i. Ministry of Railways' earlier policy of offering appointment in Railways to affect land-losers issued vide references above is withdrawn and circulars issued in this regard vide reference above stand superseded.
 - ii. Lump sum payment of Rs. 5 Lakhs to be provided to affected families who were **primarily dependent on acquired land for livelihood**, i.e., cases where their livelihood is affected by such acquisition or where entire land-holding of the affected family have been acquired.
3. Before considering grant of any relief under Second Schedule, however, the Competent Authority for Land Acquisition (CALA) or Collector should unequivocally certify that the affected family has been displaced and dislocated to another area or their entire land holding has been acquired. Further, in case of joint ownership of a plot of land, lump sum payment of Rs. 5 Lakhs should be shared between joint owners of plot in same ratio in which land value is to be shared.
4. This may be brought to the notice of all concerned authorities dealing with the acquisition of land and ensure that all Railways Act, 1989 are in consonance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013.
5. This policy shall be effective from the date of issue of this letter.
6. This issues with the concurrence of Finance and approval of the Competent Authority."

That apart, the applicants have relied upon the following decisions:

The decision in **Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others**, reported in AIR 1978 SC 851, to contend that, "when a statutory functionary makes an order based on certain grounds its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it

comes to court on account of a challenge, get validated by additional grounds later brought out."

Further, they have also relied on a judgment in **State of Karnataka & Ors. vs. C. Lalitha reported in (2006) 2 SCC 747**, wherein it was held that "all persons similarly situated should be treated similarly irrespective of the fact that only one person has approached the court."



6. The Ld. counsel for the applicant would vociferously plead that if 28 land losers could be accommodated against other projects as emphatically admitted and declared by the respondents, there is no reason why the present applicants should be deprived, more so, as they have been directed already in terms of the earlier order in O.A. 711 of 2015 that "the respondents should do well to see that the case of the applicants are screened and considered as per the scheme and if found suitable legally then necessary benefits may be accorded, as otherwise, they may be informed of their unsuitability, within a period of 4 months from the date of receipt of this order." Whereas, the impugned speaking order dated 17.03.2016 that says

"However, progress of Land Acquisition work involved with Project has been stalled at this stage as State Govt. of West Bengal has refused to carryout land acquisition work. Consequently, no further advancement of the Project can be achieved as on date. In view of that facts since project itself is not progressing, the employment against land loser can not be processed."

The applicants have argued that it is highly discriminatory and offends Articles 14, 16, 21 and 300A of the Constitution of India as well as the mandatory direction of this Tribunal in O.A.711 of 2015. Ld. counsel would thus pray for a direction to consider the applicants for employment against other projects in relaxation of their age and educational

qualification as RBE 99/2010 that was prevalent at the material time when their lands were acquired, guaranteed to them.

7. The Ld. counsels were heard and materials on record were perused.

8. From the records we discern the following :

(i) That, inarguably and indubitably the applicants are the land losers, whose lands have been acquired by the Railways to construct a Railway Project (here Bowaichandi Arambag Special New B.G.Project Railway line). They were thus dispossessed of their land to facilitate construction of a Railway Project.

(ii) That their right to employment under Railways' land loser scheme flows from RBE 99 of 2010, extracted supra, that was prevalent at the material time when land was acquired. It was under a clear assurance of employment flowing from the Railway Policy that they agreed to part with their source of livelihood.

(iii) That the respondents were already directed in the earlier O.A, to screen the applicants and consider them as per scheme, and if found suitable legally, to accord necessary benefits to them.

(iv) The respondents had never sought for any liberty to not follow the direction on the ground that the project for which land was acquired, did not turn out viable. The respondents are therefore in clear contempt.

(v) Moreover, 28 identically circumstanced land losers who were dispossessed due to proposed construction of Bowaichandi Arambag New BG Line and had supposedly lost their source of livelihood have been appointed/accommodated against other viable projects in compliance of the provision in RBE 99 of 2010. Therefore, the respondents



are estopped by their conduct to deny employment to the present land losers on the ground that the project in question has been stalled.

(vi) Admittedly, the project got stalled, but even after the project got stalled, 28 land losers under the same project were accommodated, elsewhere and therefore respondents have arbitrarily meted out discrimination against the present applicants. They have attempted to create a class within a class, which is not permissible in law.



(vii) The applicants right to employment is fortified by the RBE 99 of 2010 as well as the decision rendered in the previous OA to screen them and consider them as per scheme and to accord them necessary benefits, as also the fact that employment has been provided to identically placed land losers. Hence they are entitled to identical relief.

(viii). We further discern that the Railways are conspicuous by their silence on the reason why the present applicants, when others have been accommodated already, that too, after the project in question was stalled, cannot be accommodated against its other similar viable projects. Railways by depriving the present applicants their right flowing from RBE 99 of 2010, due to subsequent circular introduced with prospective effect, are resorting to macrocompartmentalisation on the basis of a micro distinction or no distinction at all, which is grossly unfair.

(ix) The respondents have not rejected the claim of the applicant upon due screening. They have simply refused to screen them as the project, in question, has been stalled.

9. In WPCT 74 of 2016, the Hon'ble High Court at Calcutta while considering an identical matter of a land loser who was denied

employment by Railways on the ground of age bar, has directed as under



"21. It is evident from the materials-on-record that even land losers, who were 47 years old, have been offered appointment. The respondent no. 1 was 46 years old on the date he approached the tribunal for the first time. When his claim was rejected by the first order dated July 15, 2014, age-bar was not cited as a ground therefor. What we find is that there were absence of certain documents/papers for which the claim of the respondent no.1 could not be put up before the screening committee for screening. If indeed that was the reason for regretting his prayer, the petitioners ought to have asked the respondent no. 1 to supply the documents, which were not there in the file, instead of closing his right to claim appointment. We, therefore, propose to pass the following further directions to close the breach:

(i) within a period of seven days from date of receipt of a copy of this judgment and order, the Chief Personnel Officer shall intimate the respondent no.1, which of the documents are required from his end for ensuring placement of his claim before the screening committee;

(ii) within a month of receipt of such intimation, the respondent no.1 shall produce the necessary documents/papers before the Chief Personnel Officer and upon receipt of such documents/papers, the claim of the respondent no.1 shall be placed before the screening committee for an appropriate decision;

(iii) bearing in mind the fact that other land losers have been offered appointment even upon attaining 47 years of age, we hope and trust that the screening committee shall not cite age-bar as a ground for not considering the claim of the respondent no.1 and if a power of relaxation is indeed available to consider invocation of such power if the merits of the case so warrants; and

(iv) the entire exercise shall be completed as early as possible but not beyond June 30, 2019."

10. In view of the direction of the Hon'ble High Court supra, and our revelations as indicated above, we feel it appropriate in the interest of justice, to direct the respondents to undertake an identical exercise as directed by the Hon'ble High Court in WPCT 74 of 2016 and issue appropriate order in regard to the present applicants within 4 months.

Accordingly, along with the present O.A., all the O.As. cited above, that related to identically circumstanced land losers, in regard to the same project as in this O.A. or otherwise, whose right to employment under land loser category flows from RBE 99/2010, are disposed of with identical direction. Pending M.As. in the some of the O.As. also stands disposed of. No costs.



(DR NANDITA CHATTERJEE)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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