Kept in Record
in OA 948/06

(5)

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 940 of 2006 alongwith connected OAs

Friday day, this the 14th day of December, 2007

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. K.S. Menon, Member (A)

Original Application No. 940 of 2006

Ramesh Kumar Patel, S/o Shivnarain Singh, R/o Village Chittampur, Post Office Goveriya, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.

2. General Manager (P) East Central Railway, Hazipur.

3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 941 of 2006

Sihori Lal S/o Bachau R/o Village Chhittampur, Post Office Goveriya, Mughal Sarai, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.

2. General Manager (P) East Central Railway, Hazipur.

3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 942 of 2006

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Chandra Bali Singh S/o Ram Surat Singh R/o Village Chhittampur, Post Office Goveriya, Mughal Sarai, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.
2. General Manager (P) East Central Railway, Hazipur.
3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 943 of 2006

Ram Janam S/o Ram Deo, R/o Village Chhittampur, Post Office Goveriya, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.
2. General Manager (P) East Central Railway, Hazipur.
3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 944 of 2006

Nand Lal S/o Ram Deo R/o Village Chhittampur, Post Office Goveriya, Mughal Sarai, District Allahabad.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.
2. General Manager (P) East Central Railway, Hazipur.
3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

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Original Application No. 945 of 2006

Katwaru Prasad S/o Hari Prasad R/o Village Chhittampur, Post Office Goveriya, Mughal Sarai, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.
2. General Manager (P) East Central Railway, Hazipur.
3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 946 of 2006

Ram Narain S/o Shivchand R/o Village Chhittampur, Post Office Goveriya, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.
2. General Manager (P) East Central Railway, Hazipur.
3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application NO. 947 of 2006

Shyam Jeet, S/o Ram Deo, R/o Village Chhittampur, Post Office Goveriya, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.
2. General Manager (P) East Central Railway, Hazipur.
3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 948 of 2006

Jawahir Lal S/o Sacchan, R/o Village Chhittampur, Post Office Goveriya, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.

2. General Manager (P) East Central Railway, Hazipur.

3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

Original Application No. 949 of 2006

Chandra Shekhar Singh, S/o Ganesh Prasad, R/o Village Chhittampur, Post Office Goveriya, District Chandauli.

Applicant

By Advocates Sri V.R. Dwivedi,
Sri Jagdish Pathak

Versus

1. Union of India through Secretary of Railways, Rail Bhawan, Railway Board, New Delhi.

2. General Manager (P) East Central Railway, Hazipur.

3. State of U.P. through Collector, District Chandauli.

Respondents

By Advocates Sri P.N. Rai (for respondents No.1 & 2)
Sri K.P. Singh (for respondent No.3)

O R D E R

By K.S. Menon, Member (A)

The applicant in the Original Application No.940 of 2006 is similarly placed as the applicants in O.A. No. 941 of 2006, O.A. No. 942 of 2006, O.A. No. 943 of 2006, O.A. No. 944 of 2006, O.A. No. 945 of 2006, O.A. No. 946 of 2006, O.A. No. 947 of 2006, O.A. No. 948 of 2006 and O.A. No. 949 of 2006 as the cause of action and the relief prayed for are the same. Since all the ten applicants in the above mentioned Original Applications are similarly placed, all the Original Applications are covered by this common Judgment.

2. These Original Applications have been filed against the in action of the respondents in not providing a job to the applicants under "One Job Per Family" in view of the acquisition of their lands under the Land

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Acquisition Act, 1984 for construction of the RDSO Test Track at Mughalsarai, in district Chandauli, in 1987. All the affected applicants filed several representations to the respondents citing the cases of many others whose land had been acquired for the same project and had been provided jobs and requested for jobs on the same lines. There has neither been any response from the respondents nor has any final order has been passed till date hence they have filed these Original Applications praying for a direction to the respondents to provide a suitable job to the applicants according to their qualifications.

3. The facts of the case in brief are that the respondents acquired 26.49 acres of land for construction of the RDSO Test Track at Mughalsarai. Out of this 2 acres was Government land while 24.49 acres was private land, in the village Chhittampur, Dharna and Parshurampur. The villagers of these villages whose lands were acquired, claimed a job for the land losers besides the compensation amount in accordance with Railway Board's letter dated 01.01.1983 and as was done in the case when land was acquired for D.L.W., Varanasi. This issue was deliberated in a tripartite meeting comprising of Railway Officers, State Government and a representative on behalf of the villagers on 20.06.1989. The Railway Authorities in this meeting agreed to provide jobs to at least one person per affected family whose land was acquired either wholly or partially. The applicants' grievance is that in accordance with the agreement, the respondents have provided jobs to several families (paragraph 4.5 of the O.As) whose lands were acquired but the applicants have been left out even though their lands were acquired and for which they even received compensation. By not adhering to the Settlement, the respondents are not only violating their own agreement but they have been rendered landless with no other source of income of livelihood. The applicants filed several representations. Applicants have prayed for this Tribunal to pass suitable orders protecting and safeguarding their interests.

4. The respondents on notice have filed the counter affidavit and have refuted all the arguments of the applicants. They admit that an agreement was reached between the Railways, State Government and Villagers that one member of the family whose land had been acquired, be given a job. Respondents deny that there was any pick and choose method adopted and the procedures followed were strictly in accordance with the minutes of the tripartite meeting held on 20.06.1989. Further they contend that the main issue of identifying the eligible persons was as per the clarification given by the Railway Board, a decision which was binding on both parties as laid down in the minutes of the said tripartite

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meeting. Jobs have been given to those eligible persons strictly in accordance with the list provided by the State authorities who are competent to determine the real land losers. Sri P.N. Rai has also drawn our attention to the Judgment dated 17.10.2007 passed by a Single Bench of this Tribunal in O.A. No. 1014 of 2007 Luxman Prasad Vs. Union of India and others through which the O.A. was dismissed as the Court did not find it necessary to interfere with the reasoned and speaking order passed by the respondents in compliance with this Tribunal's direction in another similar O.A. No. 597 of 2007. They, therefore, maintain that the applicants have not been able to make out a concrete case warranting any interference by this Court hence, have sought the dismissal of the Original Applications.

5. We have heard S/Shri V.R. Dwivedi and Jagdish Pathak, learned counsels for the applicants and Shri P.N. Rai, learned counsel for the respondents No.1 and 2 and Shri K.P. Singh, learned counsel for the respondent No.3 (State of U.P.) and perused the pleadings on record and the Written Submissions of the Counsels submitted after the case was heard.

6. The whole controversy appears to rise from the list of persons prepared by the district authorities, whose lands were acquired by the Railways for the RDSO Test Track at Mughalsarai and were therefore eligible for a job as per Railway Boards' letter dated 1.1.1983. The whole issue was put into perspective in the tripartite meeting held on 20.06.1989 between the Railway Officials, District Authorities and the representative of the Villagers of the Villages, which were affected by the said land acquisition (Annexure-4 of the O.A.). The salient points of the tripartite meeting, which are relevant, are as under: -

(i) Applications from affected villagers would be invited.

(ii) The difference of opinion on the definition of "Displaced Persons" would be referred to Railway Board for getting a clear definition. Decision of the Railway Board would be binding on both parties.

(iii) On the issue of "one job per family", the difference of opinion on what constitutes a family was also to be referred to the Railway Board whose decision will be binding on both parties.

The decision of the Railway Board on points (ii) and (iii) above was that

"Only those families who are displaced physically due to acquisition of their houses or whose livelihood is materially affected by acquisition of land can be considered for the job at the rate of one person per family. The extent to which

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the families are affected is normally assessed by the Collector or District Magistrate.

The above decision of the Railway Board which is binding on both parties was communicated to the District Magistrate, Varanasi by the Chief Engineer (Con)-III, Eastern Railway, Calcutta vide his letter dated 26.07.1990, requesting him to make available a list of families as per the decision of the Railway Board (annexure-3 of C.A.) It is in response to this letter of the Chief Engineer that the District Authorities vide their letter dated 31.08.1990 (Annexure-4 of C.A.) communicated a list of 20 eligible persons as defined by the Railway Board for grant of a job. The respondents submit that out of the list of 20 eligible persons, four cases were not considered as the applicants had applied for jobs in favour and their daughters-in-law/adopted son, which as per the rules is not permitted. Out of the balance 16, the wards of 15 applicants were provided with jobs while one case is under investigation.

7. The applicants have alleged several irregularities and mal practices by the respondents in the selections/recommendation of the land losers. They contend that out of 337 land owners for 142 plots affected by the land acquisition only 20 land losers have been identified. Besides, they point out that there are many irregularities in the list of 20 whereby many persons given a job ~~one~~ are from the same family whereas in the case of the applicants while their land has been acquired and compensation paid, not a single member of the family has been given a job.

8. We are of the view that the entire controversy of the definition of "Displaced Person" and the concept of "family" for purposes of giving a job have been laid to rest by the clarification given by the Railway Board as mentioned in the letters dated 07.06.1990 (annexure-2 of C.A.) and 26.07.1990 (annexure-3 of CA). These decisions of the Railway Board are binding upon both parties as such trying to reopen the issue by giving a different interpretation to the issues involved is not correct on the part of the applicants. The respondents on their part have come to an agreed solution through the tripartite meeting and have sought the list of eligible persons as per the Railway Board clarifications from the District Authorities, who have provided the same on the basis of which, jobs have been provided. It cannot therefore be said that the respondents are responsible for any grievance on the part of the applicants. Having communicated the agreed parameters to the District Authorities, the respondents have no option but to abide by the

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list furnished to them by the District Authorities who are competent to determine, who the real land losers are. We, therefore, do not find anything wrong with the action of the respondents in granting jobs to the persons contained in the list furnished by the District Authorities and the grievances of the applicants, if any, should be agitated before the appropriate forum of the District Authorities. We are also aware that the case of similarly placed persons in O.A. No. 597 of 2007 and O.A. No. 1014 of 2007 have been disposed of/dismissed by this Tribunal and the respondents' counsel is urging that these Original Applications also be dismissed on the analogy of the above mentioned Original Applications.

9. In view of the above analysis, we are of the considered view that the respondents may reconsider the representation of the applicants and in the case of applicants who have not submitted any representation, then consider their Original Application as a representation and get the whole issue examined by an Expert Committee which shall inter alia consist of the District Administration Officials also and determine whether any genuine land loser has been inadvertently omitted from the list. The findings of the said Committee should be finalized within two months from the date of receipt of this order and shall be treated as final and binding on both partles. The respondents will implement the said findings of the Expert Committee as warranted within a period of two months thereafter.

10. The Original Applications are disposed of with the above directions. No costs.

Member (A)

Vice Chairman

/M.M/