

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 306 of 1988

Date of decision : July 17, 1990.

Jagabandhu Rath and another ...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicants ...

M/s. Sashi Das,
S.P. Dhal, Advocates.

For the respondents ...

M/s. B. Pal,
O.N. Ghosh, Advocates.

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (J) In this application the reliefs sought are for quashing a letter made Annexure-4 to the application, a direction to the respondents to appoint Applicant No. 2 in a Class IV i.e. Group 'D' post or in the alternative to direct the respondents for payment of balance compensation to the applicants.

2. The material facts are that at Mahcheswar a Carriage Repair Workshop under the South Eastern Railway Administration

was to be established and for that purpose lands were acquired. A plot of land belonging to the applicants and some others was acquired in 1979 for the said purpose of the Repair Workshop and the extent of share of the applicants in that plot was 18 decimals. In May, 1982, a general notice was given inviting applications from persons whose lands were acquired for the Workshop or their sons for selection for recruitment as Class IV staff in the Carriage Repair Workshop. What the application by such persons would contain was mentioned in that notice and two of the conditions for the said appointment were that the candidates should be between the age group of 18-28 years on 1.6.1982 and they must possess a good physique and be willing to undertake manual labour. Applicant No.2 in response to the notice of May, 1982 applied on 25.6.1982 for a Class IV post in the Workshop at Mancheswar. He was duly called to appear at the test and was interviewed in November, 1982 but no appointment order was issued. It is averred in the application that even though the market value of the land acquired was Rs.75,000/- the applicants were paid only Rs.5,000/- and they accepted this meagre amount as applicant No.1 was to get an appointment in a Class IV post under the management of the Workshop. It is further averred by the applicants that as no appointment order was received, representations were made and as no reply was received, in May, 1986 a lawyer's notice was sent, copy of which is annexed as Annexure-3 to the application. Finally on 28.9.1987 the applicant No.2 was informed that he was not found suitable for appointment.

Sub Eelha
17.7.90

Making these allegations and further alleging that as by the time the reply in 1987 was received, the applicant No.2 had become overaged, the respondents are liable to grant the reliefs that the applicants have sought for.

3. The respondents in their counter have stated that the Government of Orissa was to provide land for the construction of the Carriage Repair Workshop at Mancheswat on an annual rental of Re.1/- per acre. It was the State Government of Orissa which acquired the lands for the said purpose and compensation amounts were paid to the owners of the lands acquired under the provisions of the Land Acquisition Act. A plot of land measuring 66 decimals in which 13 persons, including applicant No.1, had interest, had been acquired and for that compensation of Rs.25,274.70 had been paid. There was no agreement with the Government of Orissa that the Railway Ministry would be under obligation to provide employment assistance to the persons whose lands were acquired or their relations, however on grounds of compassion the Railway authorities desired to give employment assistance to one member of the family of the owner/owners in respect of each holding of land and the employment was to be in Class IV of Railway Service. The respondents have further alleged that applicant No.2 had once applied and appeared at the selection test held in November, 1982 and again in October, 1984 but he could not qualify. The Railway Administration was not under any obligation to inform the unsuccessful candidates of their failure to qualify. The reply in September, 1987 was given in

Merely 17/1

answer to the lawyer's notice that applicant No.2 sent to the Railway Administration. Their further case is that the quantum of compensation is a matter between the State Government and the applicants and the Railway Administration has ~~nothing~~ ^{nothing} to do with that. They have taken the ground of limitation stating that the list of persons who qualified and were empanelled was published on 19.2.1983. Therefore, the application is clearly barred by limitation under section 21 of the Administrative Tribunals Act, 1985.

4. We have heard Mr. Sashi Das, learned counsel for the applicants and Mr. B. Pal, learned Senior Standing Counsel (Railways) for the Respondents, and perused the relevant documents. It has been stated by and has also ^{been} urged on behalf of the applicants that the compensation that was paid for acquisition of land was inadequate and in fact one of the reliefs asked for is for a direction to pay the so called balance of compensation. There can be absolutely no doubt about this Tribunal not possessing any power to grant compensation in respect of land acquisition, the forum is elsewhere. Some arguments have been addressed that the value of the land acquired was much more, that is a point which we need not go into in detail, however it would be sufficient to say that the accepted norms of valuation is to ignore the Project for which the land is acquired as on the proposal of the project for which the land is to be acquired, the value of the lands would rise. We have absolutely no hesitation in saying that we are incompetent to judge or decide whether the compensation paid was adequate or otherwise and we have absolutely no jurisdiction to grant the relief of payment of so called balance of compensation as asked for by the applicants.

*Enccl 1
Manu 17.7.90*

5. It has been very strenuously urged by Mr. Das that the Railway Administration deviated from their promise to give employment assistance to the persons whose lands were acquired for the Carriage Repair Workshop at Mancheswar. Therefore, they should be directed to give an appointment to applicant No. 2 who fulfilled all the conditions for appointment to a Class IV post in the Carriage Repair Workshop. It is common knowledge that some basic qualifications are prescribed for appointment to a post. But that is not to say that anybody having the basic qualifications is to be appointed. To illustrate, point it may be stated that often many times the number of posts available, applications are made and in such a circumstance the selection procedure has to be gone through. It is the case of the Railway Administration that it entertained the application and thereafter interviewed the applicant No. 2 but as he was found not suitable, he could not be appointed. It is always open to an employer to make a selection from amongst the number of candidates, the only limitation on the powers of the appointing authority is that such selection should not be arbitrary or capricious nor should it be discriminatory. In the instant case, no allegation of malafide has been made. The only averment with regard to some discrimination that has been made is that some other persons whose lands were acquired were either appointed or their sons got appointment in Group 'D' posts. This really is not discriminatory because if the selection of one from amongst a number of persons would be said to be discriminatory the word 'selection' will be meaningless.

*Manu Das
17/1*

13

6. In view of what has been stated above, we have absolutely no hesitation in saying that the application has no merits and accordingly is dismissed, but, however, we would not like to saddle the applicants with costs.

Lalit
..... 17.7.90

Vice-Chairman

Mr. Eaply
..... 17.7.90

Member (Judicial)

