

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

O.A.Nos.154 to 170, 482, 483 and 773 of 1996

and
O.A.Nos.17 and 404 of 1997

Cuttack, this the 28th day of September, 2001

Manoj Kumar Sahoo, etc. Applicants

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*,
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*.

✓
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN

28.9.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
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Cuttack, this the 28th day of September, 2001

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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In OA 154/96

Sri Manoj Kumar Sahoo, aged 18 years, son of Sri Bahuda Sahoo of village/PO-Patia, Via-Bhubaneswar-751 005, P.S-Chandrasekhpur, Dist.Khurda.

In OA No.155/96

Rabindra Kumar Nath, aged 20 years, son of Prahallad Nath of village Mirzapur, P.O-Madhuban Hat, P.S-Dharmasala, Dist.Jajpur.

In OA 156/96

Subhaprakash Mishra, aged 20 years, son of Harihar Mishra of At/PO-Kalarahanga, P.S-Mancheswar, Dist.Khurda.

OA No.157/96

Pranab Kumar Sahoo, aged about 18 years, son of Gouranga Sahoo of village Gadakana, P.O-Mancheswar, R.S., P.S-Mancheswar, Dist.Khurda.

In OA No.158/96

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Sri Pramod Kumar Sahoo, aged 27 years, son of Jhari Sahoo of vill-Jaisola, P.O-Tarikunda, P.S-Jagatsinghpur, District-Jagatsinghpur.

In OA No.159/96

Bishnu Charan Bai, aged about 28 years, son of Bauri-bandhu Bai of Vill/PO-Palkarapur, P.S-Chandaka, District-Khurda.

In OA No.160/96

Sri Jitendra Kumar Bai, aged 18 years, son of Gedadhar Bai of Rangamatia, P.O-Mancheswar R.S., P.S-Mancheswar, District-Khurda.

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In OA No.161/96

Gangadhar Mohabhoi, aged 34 years, son of Manu Mohabhoi of At/PO-Kalarahanga, P.S-Bhubaneswar-5, P.S-Mancheswar, Dist.Khurda.

In OA No.162/96

Abhimanyu Beura, aged about 26 years, son of Alekh Chandra Beura of village Jaripatna, P.O-Barimund, P.S-Mancheswar, Dist.Khurda.

In OA No.163/96

Kanhu Charan Nayak, aged about 30 years, son of Baraju Nayak of village/PO-Laxminareyanpur, P.S-Pipli, Dist.Puri.

In OA No.164/96

Niranjan Nath, aged about 28 years, son of Alekha Nath of village Mirzapur, P.O-Madhuban Hat, Via-Kabirpur, P.S/Dist.Jajpur.

In OA No.165/96

Kanheilal Sharma, aged about 30 years, son of Ramachandra Sharma of village Rangamatia, P.O-Mancheswar R.S., P.S-Mancheswar, Dist.Khurda.

In OA No.166/96

Sri Basanta Kumar Sahoo, aged 23 years, son of Nakula Sahoo of Rangamatia, P.O-Mancheswar R.S., P.S-Mancheswar, Dist.Khurda.

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In OA No.167/96

Chintamani Sahoo, aged about 26 years, son of Bhimesen Sahoo of At/PO-Barimund, P.S-Mancheswar, District-Khurda.

In OA No.168/96

Santosh Kumar Nath, aged about 20 years, son of Dibakar Nath of At/PO-Kalarahanga, P.S-Mancheswar, Dist.Khurda.

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In OA No.169/96

Chaitanya Nayak, aged about 28 years, son of Radhu Nayak of Vill/P.O-Kaitha, Via-Chatia, P.S-Mahanga, District-Cuttack.

In OA No.170/96

Sudhakar Sahoo, aged about 27 years, son of Krishna Chandra Sahoo of village Jayapur, P.O-Belgachhia P.S-Barang, Dist.Cuttack.

In OANo. 482/96

1. Kumari Ramamani Sahoo, aged 30 years, D/o Purna Chandra Sahoo

2. Babuli Ku. Sahoo, aged 22 years, son of Purna Chandra Sahoo

Both of village Gadakana, P.O-Mancheswar R.S., P.S-Mancheswar, Bhubaneswar-17, Dist.Khurda.

In OA No.483/96

1. Rabindranath Muduli, aged 22 years, son of Baja Muduli, of village Gadakana, P.O-Mancheswar R.S., P.S-Mancheswar, Bhubaneswar-17, Dist.Khurda.

2. Upendra Kumar Nanda, aged 22 years, son of Mahendra Nanda and Smt.Kunti Devi Village Gadakana, P.O-Mancheswar R.S., P.S-Mancheswar, Bhubaneswar-17, Dist.Khurda.

In OA No.17/97

Yudhistir Bhoi, aged about 32 years, son of Kshetrabasi Bhoi, Vill-Gadakana, P.O-Mancheswar R.S., Dist.Khurda.

In OA No.773/96

Sri Patitapaban Pal, aged about 32 years, son of Beuribandhu Pal, Vill-Kazipatna, P.O-Utampur, P.S-Pratap Nagari, Dist.Cuttack

In OA No.404/97

1. Sibendra Sahoo, aged about 50 years, son of late Bhimason Sahoo

2. Smt.Budhi Bewa alias Sahoo, aged about 50 years, D/o late Hari Sahoo
Both of village Gadakana, Samil Rangamatia, P.O-Mancheswar R.S., P.S-Mancheswar, Dist.Khurda, Orissa

Vrs.

In all the cases

1. Union of India, represented through its Secretary Ministry of Railways, Rail Bhawan, New Delhi.
2. South Eastern Railway, represented through its General Manager, Garden Reach, Calcutta-700 043
3. Chief Workshop Manager, Coach Repairing Workshop, Mancheswar, P.O-Mancheswar R.S., Dist.Khurda.
4. Deputy Commissioner, Rail Co-ordination & Exofficio Deputy Secretary to Government, Transport Department, Orissa, Bhubaneswar

..... RESPONDENTS

Advocates for applicants - M/s Dhaneswar Mohanty,
Srikanta Dash
B.Mohapatra
P.K.Mishra

Advocates for respondents - Mr.P.K.Mishra,
Railway Advocate for
Respondents 1 to 3 in
OA Nos.154 to 165 and 773/96
And
Ms.S.L.Pattnaik, Railway Advocate
for Respondents 1 to 3 in
OA Nos.166 to 170/96 and
OA Nos.482 & 483 of 1996, and
OA Nos.17 and 404 of 1997,
And
Mr.K.C.Mohanty, Government Advocate
for Respondent no.4 in
all the O.As.

ORDER

SUMNATH SODI, VICE-CHAIRMAN

These twentytwo cases have been heard
separately, but the applicants are similarly situated
and have made similar averments with identical prayer.
The respondents have filed identical counters. In view
of this, one order will cover all these cases. For

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considering the issues raised, facts of O.A No.154 of 1996 are being set out in detail. Facts of other cases will be referred to briefly in respect of distinguishing features in those cases.

2. In O.A No.154 of 1996 the petitioner is a permanent resident of village Gadakana, Samil Rangamatia in the district of Khurda. He has stated that his land of Ac.0.01½ dec. was acquired by the respondents for establishment of Carriage Repair Workshop, Mancheswar, in L.A.Case No.41 of 1987 and compensation was paid to him on 29.3.1988. The applicant has stated that as he is a displaced person, he is entitled to employment assistance. He has referred to different circulars of the Railway Board which envisage providing of such employment assistance to displaced persons. It is further stated that Land Acquisition Collector, Puri, in his letter dated 14.7.1988 (Annexure-R/1 to the counter) has forwarded the names of 22 displaced persons and the name of the applicant's father appears against serial no.4 of this list. It is further stated that in O.A.No.257 of 1994 the Tribunal in their order dated 7.12.1995 had directed the respondents to consider providing employment assistance to the applicant in that O.A., and in the context of the above he has prayed for a direction to respondent Railway authorities to provide employment assistance to the applicant.

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3. The applicants in the other O.As. have also made similar averments. From the pleadings it appears that apart from the list sent by the Land Acquisition Collector on 14.7.1988, Deputy Commissioner, Rail Co-ordination also sent a list of 15 persons in his letter dated 17.9.1993 which is also a part of the pleadings. From these records it seems that lands were acquired from Khata Nos. 1027/26 and 1027/36 from two plots, Plot Nos. 4685 and 3810 and the lands to the extent of 0.00 $\frac{1}{2}$ to 0.005 decimals except in respect of OA Nos. 17 and 404 of 1997, were acquired from these two plots. There is some discrepancy with regard to the names of some of the applicants as mentioned in the two lists and these will be referred to later. In the context of the above, the applicants have come up with the prayer similar to the prayer of the applicant in OA No. 154 of 1996.

4. Respondent-Railways have filed identical counters in all these cases. They have taken the stand that lands were acquired for establishing the Carriage Repair Workshop at Mancheswar. At that time, for smooth co-ordination between the Railways and the State Government, the State Government had appointed an officer designated as Deputy Commissioner, Rail Co-ordination and ex officio Deputy Secretary to Government of Orissa in the Commerce & Transport Department. The Deputy Commissioner, Rail Co-ordination in his letter dated 11.5.1982, which is also there in the pleadings, furnished a list of persons whose lands have been acquired for establishment of Carriage Repair Workshop

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at Mancheswar. For the purpose of providing employment assistance to them, a Selection Committee was constituted by the Railways in which apart from Railway officials, Sub-Divisional Officer, Bhubaneswar, was a member. Selection took place on four occasions on 29.11.1982, 16.10.1984, 17.10.1984 and 16.10.1985. Altogether 175 candidates appeared at the interview out of which 97 got selected and were offered employment assistance and after the fourth selection the file was closed so far as employment assistance to displaced persons is concerned. Thereafter the Land Acquisition Officer, Puri, in his letter dated 14.7.1988 sent a list of 22 persons. Deputy Commissioner, Rail Co-ordination also sent a list of 15 persons in his letter dated 17.9.1993. The respondents have stated that after appointment of 97 persons and closure of the file, the State Government had written letter dated 6.1.1989 stating that the Railways have taken all the eligible displaced persons. In this letter it was further stated that in July 1988 General Manager had assured the Chief Minister to make proposal for absorption of 200 people out of the pending 4000 applications. The State Government in this letter wanted the Railways to take urgent action with regard to these 200 people. The Railway-Respondents have further stated that as all the eligible persons have been given appointment and the State Government have also said so, the question

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of giving further employment assistance does not arise. They have stated that Land Acquisition Officer is not authorised to sponsor 22 persons directly to the Chief Workshop Manager. It is further stated that the Scheme of the Railways is in the nature of giving employment assistance to displaced persons and this does not confer a permanent right on the persons to get absorbed in the Railways. On the above grounds, the respondent-Railways have opposed the prayer of the applicants in these O.As.

5. We have heard Shri Dhaneswar Mohanty, the learned counsel for the petitioners, Shri P.K. Mishra appearing for respondent-Railways in O.A.Nos.154 to 165 and 773 of 1996 and Madam S.L.Patnaik appearing for respondent-Railways in O.A.Nos.166 to 170, 482 and 483 of 1996 and O.A Nos.17 and 404 of 1997, and Shri K.C. Mohanty, the learned Government Advocate appearing for the State Government in all the O.As. and have also perused the records. The learned counsel for the petitioners has relied on two decisions of this Bench of the Tribunal in the case of Debendra Sahoo v. South Eastern Railway and others, O.A No.98 of 1994 - decided on 10.9.1995, and the case of Babaji Sahoo v. South Eastern Railway and others, O.A.No.257 of 1994 - decided on 7.12.1995. He has also relied on the following decisions:

(i) State of Punjab and others v. Surinder Kumar and others, AIR 1992 SC 1593;

(ii) Shreedharan Kallat v. Union of India and others, AIR 1996 SC 640;

(ii) K.Ajit Babu and others v. Union of India and others, AIR 1997 SC 3277;

(iv) State of Orissa v. Hari Behera and another, 1999 (II) CLR 236;

(v) S.I.Rooplal and another v. Governor through Chief Secretary, Delhi and others, AIR 1999 SC 594; and

(vi) Maharashtra Vikrikar Karmachari Sangathan v. State of Maharashtra and another, AIR 2000 SC 622.

We have perused these decisions. The learned counsel for the petitioners has filed with a memo the relevant circulars of the Railway Board providing for employment assistance and we have gone through the same. Before considering the submissions made by the learned counsel for both sides, the provisions of the Scheme of the Railways for providing employment assistance in connection with acquisition of land will have to be noted. Before doing that it is necessary to note that we have in our Order dated 20.9.2001 disposed of another batch of seventeen cases bearing O.A.Nos.137 to 153 of 1996 and in paragraph 8 of that order we have noted in detail the provisions of the Scheme as is envisaged by the Railways in their different circulars. In view of this, it is not necessary once again to refer to all the elements of the scheme. Only the important points can be noted.

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Firstly, employment assistance is to be considered in case of large scale acquisition of land for projects. From this it is clear that for acquisition of small parcel of land in a particular area, employment assistance is not envisaged. Secondly, it is mentioned that Land Acquisition Review Committee had considered the question of Government's responsibility for rehabilitation of evicted families as a result of acquisition of lands for projects. In the Scheme it is provided that the individual concerned should have been displaced himself or he should be the son/daughter/ward/wife of a person displaced from land on account of acquisition of the land by the Railways for the project. It is also provided that this dispensation should be limited to recruitments made from outside in direct recruitment categories and to the first recruitment or within a period of two years after the acquisition of the land whichever is later. Displaced persons who have derived benefit through the State Government in the shape of alternative cultivable land will not be entitled. The concerned persons will have to go through normal recruitment procedure and have to be found suitable by the appropriate recruiting agency. In Establishment Serial No. 325 of 1987 it has been mentioned that ~~the~~ a question has been raised whether persons who have got cash compensation through the State Government should be considered for employment in the Railways. It

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has been ordered that the Zonal Railway should take a decision on individual request taking into account the extent of land acquired, amount of compensation paid, size of the family to be supported, etc. (emphasis supplied). In another letter dated 22.3.1985 which was circularised as Establishment Serial No.341 of 1987, the question of providing employment assistance in case of acquisition of property belonging to Hindu undivided family has been considered and it has been clarified that only one member per family would be considered and in case the land gets divided amongst the members of the Hindu undivided family and such division had taken place shortly before acquisition, only one member of the undivided family should get employment assistance and in case of persisting dispute amongst the divided family members, no offer of employment assistance should be made. In another circular dated 10.11.1989 filed by the learned counsel for the petitioners it has been laid down that in case of acquisition of land where employment assistance is justified a notification should be issued locally where the land is acquired calling for applications from eligible persons. This notification should clearly indicate the date by which such applications should be submitted and a reasonable period of time should be allowed and it should be made clear that ~~xxx~~ no application received after the specified date will be entertained.

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6. The purpose of mentioning the above salient points of the scheme is to underscore the point that the Scheme does not confer a vested right on the evicted/displaced families to get job in the Railways. Even in the case of compassionate appointment, the Hon'ble Supreme Court have held that right to get employment in such a case is not a vested right. In case of establishment of major Railway project in which large scale acquisition of land is involved, displaced/evicted families are entitled for consideration for jobs in the Project. Obviously, after the project has been established with full complement of staff, the Railway authorities cannot be reasonably expected to create posts for giving employment assistance to such persons.

7. The other aspect of the matter is that the persons whose lands have been acquired must be those who have been evicted and displaced from their lands. In the instant cases, the lands of the applicants or of those through whom the applicants claim for jobs, in village Gadakana, Samil Rangamatia have been acquired, but these applicants are still continuing in village Gadakana. Therefore, it cannot be held that they have been evicted/displaced. It is submitted by the learned counsel for the petitioners that as the lands of the applicants, ^{have been acquired} they must be taken to have been displaced from that portion of the land which has been acquired and which was in their possession earlier. In these cases generally one (1) to two (2) decimals of land have been acquired. In one case, i.e., OANO.159 of 1996 only $\frac{1}{2}$ decimal of land has been acquired. There is nothing

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in the scheme that even when such minute portion of land is acquired, the person whose land is acquired thereby gets a right to be considered for job in the project which is set up by the Railways. In these cases, the Land Acquisition Collector, Puri, in his letter dated 14.7.1988 had sponsored the names of 22 persons. Their lands have been acquired in 1987 and there is nothing on record as to why these applicants did not approach the Tribunal before 1996. In respect of 15 names forwarded in the letter dated 17.9.1993 it must be held that the Project having already been established and the first recruitment and the two years period having been already over, the Railways were not obliged to consider these cases for employment assistance.

8. In OA No.158 of 1996 the applicant is one Rabindra Kumar Nath, son of Prahallad Nath. The applicant has stated that his name was forwarded by the Land Acquisition Collector in his letter dated 14.7.1988. From this we find that name of Brundaban Nath, son of Prahallad Nath has been forwarded by the Land Acquisition Collector. From this it is clear that the name of the applicant's brother has been forwarded and the applicant is also claiming as the son of Prahallad Nath. In view of this, the case of this applicant cannot be considered in terms of the instructions of the Railway Board noted applicants by us earlier. In OA Nos. 159 and 160 of 1996/Bishnu Charan Bai and Jitendra Kumar Bai are claiming employment assistance on the ground that 0.00 $\frac{1}{2}$ decimal of land belonging to Bhramarbar Pal has been acquired. Applicant

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in O.A.No.159 of 1996 has stated that Bhramarbar Pal is his uncle and he is claiming through him. Applicant in OA No.160 of 1996 has claimed that Bhramarbar Pal is his grandfather and through him he is claiming employment assistance. In view of this, in terms of the Scheme no employment assistance is to be provided in these two cases at all. In OA No. 483 of 1996 there are two applicants, Rabindranath Muduli, son of Baja Muduli, and Upendra Kumar Nanda, son of Mahendra Nanda. From the pleadings it appears that in the list of displaced persons sent on 11.5.1982 against name of Baja Muduli, father of applicant no.1 was mentioned against serial no.31 and the name of Mahendra Nanda, father of applicant no.2 was mentioned against serial no.5 in the same list. Against serial no.31 in which name of father of applicant no.1 appears, there were five other names and all of them appeared before the Selection Committee on 29.11.1982 and were found unsuitable. In the second selection held on 17.10.1984 all the displaced persons against serial no.31 were called. Baja Muduli appeared along with others and was declared unsuitable and one Janakar Sahu, son of Bhadi Sahu, whose name appears against serial no.31 and one Kunja Muduli, son of Sana Muduli were found suitable. As employment assistance has been provided to the persons found suitable against the names mentioned against serial no.31 and Baja, father of applicant no.1 was found unsuitable, the applicant no.1 cannot claim employment assistance as this is not a vested right. *As regards*
Applicant no.2 Mahendra Nanda, father of applicant no.2

nominated one Sarat Kumar Sahu as his adopted son, but he was again found unsuitable. In the selection held in 1985 Akhaya Nanda, son of Bata Nanda, Krushna Nanda and Krushna Chandra Parida, dependant of Kunti Devi were found suitable and were given employment assistance. As employment assistance has already been provided against serial no.5 and as Mahendra Nanda had earlier nominated Sarat Kumar Sahu as his adopted son, who was found again unsuitable, applicant no.2 cannot/claim employment assistance. The prayer of these two applicants in OA No.483 of 1996 is rejected.

9. In OA No.17 of 1997 Yudhistir Bhoi, son of Khetrabasi Bhoi had claimed employment assistance. In the list dated 11.5.1982, which is not enclosed by the respondents but which is available in the pleadings of OA No. 483 of 1996, the name of the applicant's father Khetrabasi Bhoi appears against serial no.24 along with 4 others, all sons of Gati Bhoi. The respondents have stated that in response to this, Khetrabasi and Bansidhar Bhoi nominated their son Yudhistir Bhoi, the present applicant and Jagabandhu Bhoi. In the selection Jagabandhu Bhoi was found suitable and was given employment assistance and the applicant was not found suitable. As one person from the holding has been provided employment assistance and the applicant has once been found unsuitable, he cannot once again claim employment assistance. On this ground also, the prayer of the applicant in OA No.17/97 is rejected.

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10. In OA No. 404 of 1997 Sibendra Sahoo, son of ~~Bhimasen~~ Bhimasen Sahoo and Smt. Budhi Bewa alias Sahoo, daughter of late Hari Sahoo are the applicants. Apparently, on payment of compensation to the applicants, there were litigations before the learned Sub-Judge, Bhubaneswar, who ~~was~~ ordered payment of compensation to the applicants. The Civil Revision carried to the Hon'ble High Court was dismissed. In these cases the applicants have come up almost 20 years after their lands have been acquired and in the meantime the first recruitment and the period of two years are also over and this being not a vested right, the applicants cannot be allowed to agitate the matter after such long lapse of time.

11. The learned counsel for the petitioners has relied on two decisions of this Bench in Debendra Sahoo's case (supra) and Babaji Sahoo's case (supra). In our order dated 20.9.2001 in OA Nos.137 to 153 of 1996, we have analysed these two decisions and have noted that in Debendra Sahoo's case (supra) the Tribunal held that strictly on facts there is no scope for giving the relief prayed for by the applicant. This decision therefore does not go to support the cases of the present applicants. Babaji Sahoo's case (supra) is clearly distinguishable because in that case the land of the applicant was acquired in 1989 as noted by the Tribunal and therefore, the Tribunal taking note of the fact that ~~was~~ no public notice, as envisaged under

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the 1989 Circular, has been issued, directed consideration of the case of Babaji Sahoo. That decision is clearly distinguishable. The decisions cited by the learned ^{Other} _{^ V/s} counsel for the petitioners have been discussed in our order dated 20.9.2001 in OA Nos.137 to 153 of 1996. In consideration of that and in the light of our discussions above, we hold that the cases of the applicants before us in these twentytwo O.As. are similar to the applicants in OA Nos. 138 to 153 of 1996 and therefore, our order in the earlier batch of cases will also cover these cases.

12. In the light of the above, we hold that the Original Applications are without any merit and the same are rejected. No costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE CHAIRMAN
28.9.2001

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