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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 681 OF 1998
Cuttack this the 27th day of October, 1999

Loba Gunta @ Paiko

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

27-10-99
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 681 OF 1998

Cuttack this the 27th day of October, 1999

CORAM:

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

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Loba Gunta @ Paiko
aged about 27 years,
S/o. Laxman Gunta @ Paiko
Vill: Chataguda
Po/via: Sunabeda
Dist: Koraput

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Applicants

By the Advocates : M/s.P.V.Ramdas
P.V.B.Rao

-versus-

1. Union of India represented
by the General Manager
South Eastern Railway
Garden Reach
Calcutta-43
2. Divisional Railway Manager(Engg)
South Eastern Railway
Waltair (A.P.)
3. District Collector,
Koraput
At/Po/Dist: Koraput

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Respondents

By the Advocates : Mr.R.C.Rath
Addl.Standing Counsel
(Railways)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): In this application seeking appointment under the Department of Railways, represented through Res. 1 and 2, the case of the applicant is that his lands measuring Ac.3.42 dec. were acquired by the Railways for the purpose of construction of railway line from Koraput to Rayagada under notification dated 10.2.1984 (Annexure-1). It is his case that in all cases where acquisition of lands has been made by the Railways for construction of Railway lines, a provision is made in the circular to offer appointment to any one in the family, whose lands have been acquired. The applicant made several representations to Res.1 and 2, who are Divisional Railway Manager(Engg), S.E.Railway, Waltair and District Collector, Koraput, respectively, but without any response. Annexure-2 dated 3.9.1998 is one of such representations addressed to the Collector, Koraput with copy to Res.2. But Res.2, in his reply dated 17.9.1998(Annexure-3) regretted inability to offer any appointment. It is the further case of the applicant that Collector, Koraput (Res.3) recommended his case to Res.3 in letter dated 5.5.1998 under Annexure-4. Yet his case was not considered. Hence this application for direction to Res.2 to provide appointment under the Rehabilitation Scheme under the Railways.

2. Res.3, Collector, Koraput, though noticed had not entered appearance. Res. 1 and 2, in their counter take the stand that the Railway Board in consultation with the Government of Orissa decided to undertake construction of Koraput - Rayagada railway line and the Government of Orissa undertook to provide lands for the purpose of construction of the railway line. It was decided in the

meeting of the Chief Minister of Orissa and the Chief Engineer (Construction), S.E.Railways, Waltair to provide jobs to 200 land losers subject to availability of work and fulfilment of the terms and conditions as provided under the rules and instructions of the Board. Pursuant to this decision, Collector, Koraput, on behalf of the State Government sent nine separate list of families at different times till the end of the year 1988. In this way, he had submitted a list of total Nos. of 1411 families. Out of this list, a duly selected committee including Sub Collector, Koraput, after screening recommended the names of 188 persons, who were appointed as casual labourers by the Railway Administration. The remaining 12 posts were not filled up for want of production of proper land records by the candidates during scrutiny. Even, thereafter the State Government in letter dated 8.6.1989, once again submitted a revised list of families as against 100%, ~~persons~~, 75%, 50% and 25% land losers category. Despite sending such revised list, much to the surprise of the Railway Administration, the State Government authorities had also recommended some of the cases like that of the applicant. This revised list dated 8.6.1989 does not disclose names of several persons, who were already appointed on the basis of earlier recommendation and on this account the Chief Administrative Officer(C), S.E.Railway, Visakhapatnam in letter dated 29.12.1992 referred this fact to the District Collector, Koraput with a request to resubmit the list of persons to be discharged from service being fictitious and the names of the land losers to be appointed afresh.

Under Establishment Sl.No.322/87, it has been provided to give preferential treatment to the land losers

subject to availability of work. Work at Koraput - Rayagada Section is almost completed and the casual labourers engaged in the project have been reduced and therefore, question of further engagement of casual labourer does not arise at this belated stage.

The employment assistance agreed was subject to availability of work and was also on the basis of the lands takenover by classifying under four categories, viz., 100%, 75%, 50%, and 25%. The applicant has been placed under 25% category. Since 200 persons were agreed to be accommodated in employment in order of preferential category, no land loser, who lost 25% of the land like the applicant has been considered for employment.

It is the further stand of the Railways that this application is barred by time. Since the acquisition of lands made in the year 1984, which resulted in cause of action for claiming employment under the Railways, this application filed on 21.12.1998 is hopelessly barred by time.

3. No rejoinder has been filed by the applicant.

4. We have heard Shri P.V.Ramdas, learned counsel for the applicant and Shri R.C.Rath, learned Addl.Standing Counsel appearing for the Railway Administration. Also perused the records.

5. No rule/circular has been placed in support of the averment that in all cases where acquisition of land is made by the Railways for construction of railway line, a provision is made in the circular to offer appointment to any one in the family whose lands have been acquired. On the other hand, it is the specific stand of the Railways that as per their agreement with the State Government, they were required to provide jobs to 200 land

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losers only and that too on the availability of work and fulfilment of the terms and conditions as provided in the rules/instructions of the Railway Board. As per Establishment Sl. No.322/87 dated 24.11.1987, preferential treatment has to be given to the land losers in providing employment and that too subject to availability of work. The specific case of the Department is that at present no more work is available because of the completion of construction of Koraput-Rayagada railway line. Already 200 land losers have been provided with work on the recommendation/list submitted by the Collector, Koraput and scrutinised by the Selection Committee, comprising of Sub Collector, Koraput. These facts stated in the counter have not been denied by the applicant through any rejoinder.

We also agree with the contention of the learned Addl.Standing Counsel appearing for the Railways that this application is barred by time. Admittedly, the acquisition took place in the year 1984. In December, 1988 itself, 200 land losers have been accommodated. Even if the applicant filed representation prior to 1988, the same would not save limitation.

6. In the result, we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.

Somnath Soni
SOMNATH SONI
VICE-CHAIRMAN
27.10.99

B.K.SAHOO

27.10.99
(G.NARASIMHAM)
MEMBER(JUDICIAL)