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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A NO 528 OF 1999

Cuttack, this the 12th day of February, 2004

Praska Karasa and others 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? Yes


(B. PANIGRAHI)
VICE-CHAIRMAN


(B.N. SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 528 OF 1999

Cuttack, this the 12th day of February, 2004

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI JUSTICE B.PANIGRAHI

1. Praska Karasa, aged about 26 years, son of Praska Murty, village Bhalumaska, P.O.Siriguma.
2. Ratnalu Umashankar, aged about 28 years, son of Ratnalu Paramananda, At/PO Siriguma.
3. Ishwar Nag, aged about 26 years, son of E.Ramakrishna, At Deulabadi, P.O.Siriguma.
4. Nachhika Ghasi, aged about 27 years, son of Bundana, At Deulabadi, P.O.Siriguma.
5. Kunu Saha, aged about 26 years, son of Trilochan Sahoo, Village/PO Siriguma
6. Pedisika Niranjana, aged about 27 years, son of P.Puran of village Tumbitara, P.O.Siriguma.
7. Perisika Narasingha, aged about 27 years, son of P.Arya of village Deulabadia, P.O.Siriguma.
8. Hikaka Pulu, aged about 26 years, son of H.Chakra, Village Bhalumaska, P.O.Siriguma.
9. Praska Kumbha, aged about 28 years, son of P.Papana of Bhalumashai, P.O.Siriguma.
10. Praska Siri, aged about 25 years, son of P.Umbri, At Bhalumaska, P.O.Siriguma.
11. Hikaka Jandu, aged about 27 years, son of Hikaka Hira, At Bhalumaska, P.O.Siriguma.
12. Perisika Kabhu, aged about 28 years, son of Parisika Binu, At Tumbi Tarai, P.O.Siriguma.
13. Pidisika Sahu, aged about 26 years, son of Pidisina Umbri, Village Paralapai, P.O.Siriguma.
14. Perisika Jairam, aged about 25 years, son of P.Bira of Tumbi Tarai, P.O.Siriguma.
15. Pidisika Nila, aged about 28 years, son of Pidisika Jagu of Paralapai, P.O.Siigua.

16. Pidisik Sahu, aged about 27 years, son of Pidisika Musri, Vilalge Barlapai, P.O.Siriguma.
17. Makara Sahu, aged about 25 years, son of D.Sahoo, At/PO Siriguma.
18. Pidisika Sitaram, aged about 26 years, son of Gopinath Parlapai, At Parlapai, P.O.Siriguma.
19. Pidisika Lokanath, aged about 28 years, son of P.Gopinath Parlapai, At Parlapai, P.O.Siriguma.
20. P.Bhusuri, aged about 26 years, D/o P.Loki, Village Bhalumaska, P.O.Siriguma.
21. Padisika Gopin, aged about 26 years, son of P.Pandu, village/PO Siriguma

All are of the District of Rayagada

Vrs.

Applicants.

1. Union of India, represented through its General Manager, S.E.Railway, Garden Reach, Calcutta 43.
2. Divisional Railway Manager, South Eastern Railway, Khurda Road.
3. Divisional Railway Manager, South Eastern Railway, Waltair Division, Waltair, At/PO/Dist.Rayagada.
4. Chief Project Manager, S.E.Railway, Rayagada, At/PO/Dist.Rayagada.
5. Collector, Rayagada, At/PO/Dist. Rayagada

Respondents.

Advocates for the applicants - M/s K.C.Mishra, H.K.Sahoo, K.B.Mohanty & B.P.Tripathy.

Advocates for the Respondents - Mr.R.Ch.Rath, SC (Railway)
Mr.K.C.Mohanty, Govt. Advocate

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri Praska Karasa and 20 others belonging to the district of Rayagada under Section 19 of the Administrative Tribunals Act, 1985, challenging the inaction of the

Respondents in not providing them job facility as compensation for the acquisition of their land.

2. The case of the applicants is that they all belong to a backward district of Orissa under K.B.K. Region, having no knowledge of the law and procedure, and maintaining the livelihood by cultivation. Their land has been acquired by the Railway authorities through Land Acquisition Officer for construction railway tracks for Koraput-Rayagada Railway Line giving them very poor compensation and assuring them that as land losers they would be provided with jobs in the Railways. Accordingly, Respondent No.5 had prepared a list of affected persons/ land losers in order to provide them compensation and job in Railways. They have further disclosed that whereas some of the land losers/applicants have already been engaged by the Railways, the applicants though once called for interview which was held on 4.10.1988, till date have not been given any job. Their allegation is that they have been made to suffer for no fault of theirs and therefore, they have approached this Tribunal for mitigation of their hardship by directing the Respondents to give employment to them.

3. Without going into the merits of the case, we would like to observe that the cause of action for the applicants arose some time in 1989. The Railway authorities had acquired the land for construction of Koraput-Rayagada Railway Line in 1988 and as per their agreement with the State Government, they had received a list of 1411 families on or before 17.12.1988 for consideration for providing jobs to 200 land losers. A Selection Committee

consisting of representatives from the State Government as well as the Railways was constituted for scrutiny of the list of 1411 candidates. The said Committee recommended 200 names of land losers for providing jobs, out of which 188 persons were appointed on casual basis. The remaining 12 posts could not be filled up due to failure of the candidates to produce proper land records during scrutiny. It also appears from the pleadings made by the applicants in the Original Application and also from the counter reply that all the candidates in this O.A. were aware of the recruitment process that had taken place for providing jobs to 200 persons and at least 7 of the applicants at Serial Nos. 2, 3, 4, 14, 15, 18 and 19 were called for screening. One was offered appointment, but he did not join. One did not clear the medical test and so on. It also reveals from the counter reply submitted by the Respondents that out of 21 applicants in this O.A., the names of 14 applicants did not tally with the names in any of the list of land losers furnished by the District Land Acquisition Officer, Koraput. But none of them had either represented their grievance before the competent authority during the relevant time nor did they take any action all these years before they submitted this Original Application on 1.10.1999 after a lapse of over ten years after the cause of action arose. It is also surprising that they have not filed any formal application for condonation of delay nor during the oral submission the learned counsel for the applicants was able to submit any convincing reasons to explain the delay. As delay defeats purpose, we would

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like to refer here to the provisions of Section 21 of the Administrative Tribunals Act, 1985, which reads as follows:

"21. Limitation.-(1) A Tribunal shall not admit an application, -

- (a) in a case where a final order such as is mentioned in Clause (a) of Sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) In a case where an appeal or representation such as is mentioned in Clause (b) of Sub-section(2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of the said period of six months.

(2) Notwithstanding anything contained in Sub-section (1) where

- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
- (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or, as the case may be, Clause (b) of subsection(1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in Sub-section(1) or Sub-section(2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of Sub-section(1) or, as the case may be, the period of six months specified in Sub-section(2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

A reading of the said section would indicate that sub-section (1) of Section 21 provides for limitation for redressal of the grievances in clauses (a) and (b)

and specifies the period of one year. Sub-section (2) amplifies the limitation of one year in respect of grievances covered under clauses (a) and (b) and an outer limit of six months in respect of grievances covered by sub-section (2) is provided. Sub-section (3) postulates that notwithstanding anything contained in sub-section (1) or sub-section (2), if the applicants satisfy the Tribunal that they had sufficient cause for not making the applications within such period enumerated in sub-section (1) and (2) from the date of application, the Tribunal has been given power to condone the delay, on satisfying itself that the applicants have satisfactorily explained the delay in filing the applications for redressal of their grievances. Explaining the scope of Section 21, the Apex Court in the case of *State of Karnataka and others v. S.M.Kotrayya and others*, 1996 SCC (L&S) 1488, have laid down that if the application is filed beyond the period prescribed under Section 21, the applicant must give satisfactory explanation for the delay caused till date of filing of the application and then the question of satisfaction of the Tribunal in that behalf would arise. Their Lordships have further emphasized that the explanation for the delay which occasioned after expiry of the period prescribed in sub-sections (1) and (2) thereof must be explained properly and satisfactorily to justify condonation of delay. The law in this behalf is now well settled in the case of *Secretary to Government of India and others v. Shivram Mahadu Gaikwad*, 1995 SCC (L&S) 1148, where it has been held that a valid explanation is to be placed on record for coming to the conclusion that a case for condonation of delay has been made out and that the Tribunal cannot

gloss over the question of limitation or cannot overlook an application which is clearly barred by limitation. In the instant case, the applicants have approached the Tribunal after a decade of the cause of action taking place without submitting any application for condonation of delay and in the circumstances and relying on the law set by the Apex Court in the matter in the case law referred to above, we are unable to overlook the limitation which is staring at us in this Original Application. Therefore, without going into the merits of the case, we dismiss this Original Application at the threshold itself, being grossly barred by limitation.



(B. PANIGRAHI)
VICE-CHAIRMAN


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VICE-CHAIRMAN

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