

ORDER DATED 31-8-2001.

This matter was partly heard on 2-8-2001 when Ld. counsel for the Applicant was absent and no request was made for adjournment on their behalf. Therefore, after hearing Shri R.C.Rath, learned Additional Standing Counsel in part, we felt that learned counsel for the applicant should be given one more chance to make his submission and the matter was posted to 10-8-2001. On 10-8-2001, learned counsel for the Applicant appeared and file rejoinder after serving copy on the other side and thereafter, the learned ASC was given three weeks time to obtain instruction on the rejoinder and the matter was fixed today for peremptory hearing. Learned counsel for the applicant and his associates are absent. There is also no request for adjournment from their side. As this matter has been heard in part, it is not possible to drag on the matter indefinitely and adjourn it further. More so in the absence of any request for adjournment. In view of this, we have further heard Shri R.C.Rath, learned Additional Standing Counsel for the Respondents and have also perused the records.

S. Som. For the purpose of considering this petition, it is not necessary to go into too many facts of this case more so because the facts necessary for adjudicating this OA are mostly not in dispute. The applicant in this Original Application has prayed for a direction to the Respondents 1, 2 and 3 to provide employment to one of the eligible persons in his family and has also prayed that for this purpose the Respondents should be directed to collect the Bio-data from the suitable person within a stipulated period. The case of the applicant is that he is a resident of village Gadakan and

he lost six decimal of land which was acquired when the Carriage Repair workshop was set up at Mancheswar. He has stated that according to the Railway Instruction in case of persons who lose their land because of establishment of any Railway project, one member of his family of the said land looser will be provided with employment. In the context of the above, the applicant has come up in this Original Application with the prayers referred to earlier.

It is not necessary to refer to all the averments made by the Respondents in their counter and the applicant in his rejoinder because these will be referred to while considering the submissions made by learned ASC. It has been averred by the Respondents that applicant's land was acquired in the year 1979 and the name of applicant was forwarded by the State Govt. from the office of the Deputy Commissioner Railway Co-ordination and Ex-Officio Deputy Secretary to Government in his letter dated 11-5-1982 at Annexure-R/1. Applicant had nominated his nephew one Shri Dhuruba Charan Sahoo for being considered for employment in land looser category. Respondents have stated and applicant has not denied this in his rejoinder that Shri DC Sahoo was considered for appointment in 1982 and at the time of consideration it was found that he was unaged having been born on 29.9.1964. This averment has not been denied by the applicant in his rejoinder and therefore, it must be held that on the date Shri DC Sahoo was considered in 1982 he ^{had} ~~was~~ not reached the age of 18 years and therefore, Departmental Respondents were ~~in~~ right in rejecting the case of Shri DC Sahoo, the nephew of the applicant. It further appears in the counter that the case of Shri DC Sahoo was again~~na~~ considered in 1984 and he was not found suitable. This appears from Annexure-R/4,

where the name of Shri DC Sahoo was considered but he failed in the selection. These averments have not been denied by the applicant in his rejoinder. Applicant has in the rejoinder stated that the stand of the Respondents that the scheme for providing compassionate appointment has been closed in 1983 should not be accepted. We are not inclined to form an opinion in this regard because for the present purpose it is not necessary to consider whether the scheme was closed in 1983 or not. Prior to this, on two occasions the applicant had nominated a person who has been considered and not found suitable. At the time when applicant had nominated his nephew in 1982, he was unaged and this must have been within the knowledge of applicant. Applicant has no right to keep on nominating one person ^{after another.} because this is not a vested right. In view of this since the nephew has been considered more than once and was found unsuitable on the grounds which can not be interfered with by the Tribunal we hold that the prayers of applicant are without any merit and the same are rejected.

In the result, therefore, the Original Application is dismissed. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE CHAIRMAN

KNM/CM

Free copies of final
order dt. 31.8.2001
issued to counsel
for both sides.

AKM
S.O.C.J.

DS
6.9.01