

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.912 of 2006
Cuttack, this the 21st day of December, 2009

Chakradhar Pattanaik & Ors. Applicants
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

(C.R.MOHAPATRA)
MEMBER (ADMN.)

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C O R A M

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

1. Chakradhar Pattanaik, son of Biranchi Narayan Pattanaik, At-Brahmanipalli, PS. Sindurpank, District-Sambalpur.
2. Manabhanjan Panigrahi, Son of Balaram Panigrahi, Atkhanduan, PO/PS. Dhanupalli, District-Sambalpur.
3. Jagadananda Swain, son of Padmalava Swain, At/Po.Bhatra, PS. Dhanupalli, District-Sambalpur.
4. Sachidananda Nayak son of Late Akrur Nayak, At/Po. Dhanakuda, District. Sambalpur.
5. Manoja Kumar Pradhan, son of Bijaya Kumar Pradhan, At/Po.Dhankuda, Dist. Sambalpur.

....Applicants

Legal practitioner :M/s. Suresh Ch. Mishra A.K.Rath, Advocate.

- Versus -

1. Union of India represented through the General Manager, East Coast Railway, C-57/G, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda (Orissa), PIN 751 023.
2. Deputy Chief Personnel Officer (Recruitment), Railway Recruitment Cell, East Coast Railway Headquarter, C-57/G Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda (Orissa), PIN 751 023.

....Respondents

Legal Practitioner : Mr.P.C.Panda, Advocate.

O R D E R

MR. C.R.MOHAPATRA, MEMBER (ADMN.):-

Alleging deviation from the promises made by the Railway Authorities to provide employment to one of the family members whose lands have been acquired for construction of Sambalpur-Talcher Railway line and the five Applicants being the members of such land oustees have approached this Tribunal in the present Original Application seeking the following relief:

"(i) Respondents be directed to give or cause to give appointment to one member of the family of land ousters including the applicants on preferential basis as they are now landless persons because of the Railway Line by which their valuable lands were taken away and not to cause any further prejudice to them.

Beside the illegal and arbitrary action of the Respondents is against the principles of natural justice as well as contrary to the direction/instruction of the Central Government in not selecting the Respondents on preferential basis.

In the alternative the selection of other candidates for the post of Group D be quashed as the entire selection process is vitiated for non-consideration of mandatory direction of the Central Government as well as the Railway Board.

2. Respondents objected to the stand of the Applicants of acquiring 5 to 6 acres of land especially in absence of any documents being filed by the applicants in support of such acquisition of land for the construction of Railway Line in question. They have also questioned the very maintainability of this OA on the ground of limitation by stating that the construction of railway line of Sambalpur Talcher took place in the year 1984-1985 but no explanation has been furnished by the Applicants for the delay in approaching this Tribunal for the reliefs claimed by them. Accordingly, Respondents have prayed that this OA being devoid of any merit is liable to be dismissed.

3. Arguments put forward by respective parties having been heard we perused the material placed on record. Except reiteration of the stand that huge land belonging to the family of the applicants have been acquired by the Railway for the construction of railway line, no document either along with the OA or even during course of hearing has been filed by the Applicants in support of their contentions of acquiring the land for construction of the Sambalpur Talcher line. Neither any separate petition seeking condonation of their delayed approach nor any explanation has been furnished by them in the OA though admittedly acquisition of land took place in the year 1984-85. The Applicants also seek quashing of the selection and appointment made pursuant to the advertisement without making any of the selected persons as parties. In the absence of the above, *prima facie* we find that the argument advanced by

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the Applicants sans any merit. Leaving aside the above aspect of the matter, it is noticed that the instructions of the Railway based on which the Applicants claim benefit was before this Tribunal in another OA Nos. 839&840 of 2005 filed by Pratap Kumar Sahu and another v Union of India and others seeking the reliefs as claimed by the Applicants in the present OA. This Tribunal after taking into consideration various aspects of the matter, dismissed the aforesaid OAs in order dated 17th February, 2009. Besides, seeking employment for acquiring the land for construction of Sambalpur Talcher Railway Line one Shri Nagendra Kumar Meher and others approached this Tribunal in OA No. 205 of 2007. Relying on earlier decisions as also the case put up therein, this Tribunal in order dated December, 2009 dismissed the said OA. On examination of the records of OA No. 205 of 2007 vis-à-vis the present we find no justifiable reason to deviate from the view already taken in that OA. As such, by applying the law of precedent as held by the Honble Apex Court in the case of **SI Rooplal and others vs. Lt. Governor through Chief Secretary Delhi and others**, (2000) 1 SCC 644, this OA is held to be without any merit and the same stands dismissed by leaving the parties to bear their own costs.

10-9-2011
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

C.R. MOHAPATRA
(C.R. MOHAPATRA)
MEMBER (ADMN.)