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O.A.NO.100/2002

ORDER DATED: 21/09/2004.

Fakir Pani @ Nanda, S/o. Late Bhaskar Pani @ Nanda (who is about 35 years of age by now) has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 with prayers for issuance of direction to the Respondents/Railways to provide him an employment in Coach Repairing Workshop at Bhubaneswar; because land belonging to his family was acquired by the Railways for the establishment of Coach Repairing Workshop in mouza Gadakana near Mancheswar/Bhubaneswar in the district of Khurda of Orissa.

2. It appears, while lands were being acquired from different private individuals in Mouza Gadakana near Mancheswar/Bhubaneswar of District Khurda, a promise was held out to the private persons (whose lands were being acquired) to provide employment as ^{one of the} measures of compensation. Accordingly names of displaced persons (whose lands were acquired) were supplied to the Railways from the State Government of Orissa/Land Acquisitioning Authority; on receipt of which notices were given to those individuals and after making necessary selection employments were given to the selected persons commensurate with their educational qualifications

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etc. It further appears, the Applicant represented to the Railway Authorities on 22/08/1986 seeking an employment (from out of displaced persons quota) under the Railways; on receipt of which the Additional Chief Mechanical Engineer (W) of Carriage Repair Workshop of South Eastern Railways (stationed at Mancheswar) gave a reply to the Applicant on 04/12/1986-text of which is extracted below:-

"In response to your letter cited above it is to inform you that we have gone through your application as well as the list supplied by the Govt. of Orissa and the following conclusions were noticed.

That your father's name has been found in the list supplied by Govt. of Orissa in Srl.No.16. The said plot belongs to 14 share holders in which Sri Bhaskar Nanda son of Banchhanidhi is one of them. During the first selection on 29-11-1982, we have informed you alongwith others by a employment notice by under certificate of posting vide Srl.No.9 dated 26-6-1982. But you have neither attended the test nor informed anything in time. In this selection Sri Susanta Nanda has been selected.

During the second selection which were held on dated 14.10.1984 we have served the employment notice to Sri Bhaskar Nanda vide no.17 dt.24.09.1984 but no application has been received against this case.

In the 3rd selection we have deleted those cases from Govt. list in which one person has not appointment were called for interview list wise (as Susanta Nanda was appointed in the first selection in the Sl.No.76) your name has been deleted from the list and you have not been called for interview.

This is for your information please".

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A perusal of the aforesaid reply/letter dated 04/12/1986 of the Railways goes to show that the name of the father of the Applicant was shown as one of the displaced persons by the State Government of Orissa in the list of displaced persons supplied to the Railways and, accordingly, the father of the Applicant was noticed to face the selection on 29.11.1982 and again for the selection that was held on 14.10.1984. It appears from the letter of the Railways that the father of the Applicant did not appear nor send any of his representative to face the selection (to take appointment from out of displaced persons quota) for which his name was deleted.

3. By filing counter, the Respondents/Railways have re-iterated the facts stated in their letter dated 04.12.1986 and have also disclosed that the Land Acquisitioning Authority (i.e. the State Govt. of Orissa) had also expressed ^{their} full satisfaction in their communication dated 06.1.1989.

4. We have heard Mr. M. K. Rath, Learned Counsel appearing for the Applicant and Ms. S. L. Patnaik, Learned Counsel appearing for the Railways/Respondents, and perused the materials placed on record.

5. Applicant has described himself to be

33 years of age during 2002 and by the time the

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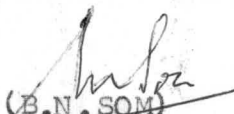
aforesaid letter dated 04.12.1986 (of the Railways) was given to him, he was, therefore, 16 years old. The selection was going on during 1982-1984; when the Applicant was a minor and, as such, he was not available to be provided with any employment. It is not the case of the Applicant that any other member of his family approached the Railways to get an employment at the relevant time. The Applicant has, virtually, challenged the order of the Railways (communicated on 04.12.1986) after a lapse of 16 years. No explanation has been given for such delayed approach. Under Annexures-2 and 3, copies of two documents have been filed to show that those were brought to the notice of the authorities of the railways claiming employment under displaced persons quota. But in course of hearing, today, Mr. Rath (learned counsel appearing for the Applicant) produced the originals of those two documents (copies of which have been produced as Annexures-2 and 3 to the O.A.) which goes to show that those documents were never produced before the Railway Authorities.

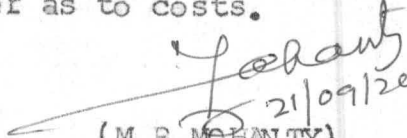
6. Aforesaid discussions goes to show that the Applicant being a minor was not available to take any employment under the Railways, even by 04.12.1986. His father, to whom notices were given, neither appeared nor claimed employment at the relevant time, for any of his family members. Thus, the prayer made in this O.A. is

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devoid of any merit; apart from the fact that this O.A. is bad for delay and laches.

7. In the result, this O.A. is dismissed.
However, there shall be no order as to costs.


(B.N. SOM)
Vice-Chairman


(M.R. MOHANTY)
Member (Judicial)

21/09/2004