

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 109 of 2008
Cuttack, this the ~~10th~~ day of March, 2011

Babuli Kumar Sahoo Applicant

-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? *yes*
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not? *yes*

AKP
(A.K.PATNAIK)
Member(Judl)

CR
(C. R. MOHAPATRA)
Member (Admn.)

9

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CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

Shri Babuli Kumar Sahoo, aged about 34 years, Son of Purna Chandra Sahoo, At-Gadakana, PO. Mancheswar, PS. Mancheswar, Bhubaneswar, Dist. Khurda.

.....Applicant

By legal practitioner: M/s.J.M.Pattanaik,S.Mishra, C.Panigrahi,
M.K.Samal, Counsel.

-Versus-

1. Union of India represented through its Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. The General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. The Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. The Deputy Chief Personnel Officer (HQs.), East Coast Railway, Mancheswar, Bhubaneswar, Dist. Khurda.
5. The Deputy Commissioner, Rail Co ordination and Deputy Secretary to Government, Commerce and Transport (Transport) Department, Orissa, Bhubaneswar, Dist. Khurda.
6. The Chief Workshop Manager, Carriage Repairing Workshop, East Coast Railway, Mancheswar, Bhubaneswar, Dist. Khurda.
7. The Workshop Personnel Officer, Carriage Repairing Workshop, East Coast Railway, Mancheswar, Bhubaneswar, Dist. Khurda.

....Respondents

By legal practitioner: Mr.T.Rath, Counsel

O R D E R

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

In brief, the case of the Applicant is that Ac.0.002 decimal of land standing in the name of the father of the applicant (Shri Purna Chandra Sahoo) in Plot No. 4535(P) corresponding to Khata No.1027/26, Mouza Gadakan under Bhubaneswar Tahasil was occupied by the

2

Railway for the construction of Railway line. In lieu of the land the father of the applicant received compensation of Rs.5, 600/-. But as per the policy decision of the Railway, by way of rehabilitation measure, one of the members of the family whose land has been occupied by the Railway is entitled to employment assistance, the benefit which has also been extended to many family members whose lands have been occupied by the Railway. Applicant being the son of Shri Purna Chandra Sahoo sought employment assistance on rehabilitation ground. His grievance has not been meted out by way of providing employment as rehabilitation measure; he along with others approached this Tribunal in OA No. 482 of 1996 seeking direction to the Respondents to provide rehabilitation assistance in lieu of the land occupied by the Railway. The above OA No. 482 of 1996 was heard by this Tribunal along with other similar matters filed by many such applicants and after considering the matter in *extenso*, this Tribunal in its order dated 28th September, 2001 dismissed the OA No.482 of 1992 along with many other OAs filed by other Applicants similarly situated as that of the present Applicant. Challenging the said order of this Tribunal dated 28th September, 2001, Applicants in OA No. 482 of 1996 filed OJC No. 25 of 2002 before the Hon'ble High Court of Orissa. Subsequently, as it reveals from the record, by filing Misc. Case No.99 of 2007, present Applicant along with others sought to withdraw the Writ Petition filed before the Hon'ble High Court of Orissa. Accordingly, vide order dated 05.03.2007, the Hon'ble High Court of



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Orissa dismissed the petition as withdrawn with pious observation that dismissal of the petition as withdrawn will not prevent the petitioners from approaching any other forum if it is available to them under the law.

Thereafter by making representation under Annexure-A/9 Applicant once again requested the Railway Administration for providing him employment on rehabilitation ground. The Respondents, as it further appears from record, rejected the claim and communicated the reason of rejection to the applicant in letter under Annexure-A/11 dated 28.11.2007. Thereafter by filing the present OA, the Applicant sought direction to the Respondent No.2 to provide him an employment forthwith in Group C or D post in terms of the notification under Annexure-A/1 being a victim of land acquisition pursuant to Annexure-A/2.

2. In the counter, the Respondents have not only denied the case on merit but also questioned the maintainability of this OA with the same set of fact and cause of action and have prayed that this OA being hit by doctrine of constructive res judicata is liable to be rejected.

3. While narrating some of the facts taken in the OA and how prejudice shall be caused in case no employment is provided to the applicant, the Applicant has tried to overcome the objection raised by the Respondents in their counter.

3. We have heard the rival submission of the parties and perused the materials placed on record. The contention of the Learned
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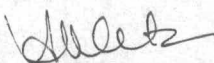
Counsel for the Applicant is that the letter of rejection under Annexure-A/11 gave rise to a fresh cause of action for the applicant. This Tribunal being the first court to adjudicate the dispute, the objection raised by the Respondents is not sustainable. In so far as the merit of the matter is concerned, it was contended by Learned Counsel for the Applicant that the Respondents having provided employment to other similarly situated family members whose lands have been occupied for the construction of the Railway line, deprivation of extension of the said benefit amounts to discrimination and is in violation of the provisions enshrined in Articles 14 and 16 of the Constitution of India. Hence Learned Counsel for the Applicant insisted for grant of the relief claimed by him in this OA. On the other hand, the Learned Counsel for the Respondents by placing reliance on some of the observations made by this Tribunal in the earlier OA and the order of the Hon'ble High Court of Orissa has contended that after the order of this Tribunal and withdrawal of the petition filed before the Hon'ble High Court merely because the representation submitted by him which was entertained and disposed of by the authority rejecting the claim of the Applicant cannot justify the maintainability of the present OA. The disposal of the representation was in accordance with the law in which it was held by the Hon'ble Apex Court that once a representation is made the fate of the representation needs to be intimated to the person concerned. But the applicant has placed no new evidence or additional material enabling this Tribunal to go beyond what has been observed by

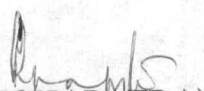
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this Tribunal while rejecting the earlier Original Application filed by the Applicant. Accordingly, Respondents' Counsel vehemently opposed the prayer of the applicant and prayed for dismissal of this OA.

4. We are in agreement with the Learned Counsel appearing for the Respondents that disposal of the representation submitted by the Applicant after withdrawal of the Writ Petition cannot afford him a fresh cause of action to agitate in a fresh OA before this Tribunal stating the very same grounds upon consideration of which this Tribunal had already rejected the earlier OA. The earlier order of this Tribunal is exhaustive and had taken into consideration all the points (even now raised by the Applicant). The Hon'ble High Court while granting liberty to the applicant had made it clear that the applicant may approach any other forum if it is available to them under the law. Law does not permit this Tribunal to reverse its views already taken and upheld by the Hon'ble High Court of Orissa.

5. In view of the above, we are constrained to hold that this OA is bereft of any merit as also is hit by the doctrine of constructive res judicata. Hence the OA is dismissed. No costs.


(A.K.PATNAIK)
Member(Judl.)


(C.R.MOHAPATRA)
Member (Admn.)