

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Dated: 06.03.08

RA 26 of 2005
(OA 952 of 1997)

Present : Hon'ble Mr. K.V.Sachidanandan, Vice-Chairman
Hon'ble Mr. P.K.Chatterjee, Member (A)

KARTICK MONDAL & ORS

VS

UNION OF INDIA & ORS (S.E.RLY.)

For the applicants : Mr. A.Chakraborty, Counsel

For the respondents : None

ORDER

K.V.Sachidanandan, VC :

This review application has been filed by the applicants of OA 952 of 1997 seeking review and recall of the order dt. 21.6.05 passed in the said OA whereby and whereunder the OA was dismissed.

2. In the OA the two applicants, who are father and son by relation, made a grievance that the land belonging to applicant No. 1 was taken over by the railway in connection with construction of new freight terminal at Sankrail in the year 1981-82. In lieu thereof alternative land was not provided to him. In the years 1982, 1985 and 1989 Railway Board issued policy guidelines that a member of the family displaced as a result of acquisition of land for establishment of railway project would be provided with employment. It was contended that the applicants did not know about those circulars and therefore they could not apply for an employment earlier. In the July 1997 the applicants came to know about those circular and thereafter applied for an employment in Gr. C post in respect of applicant No. 2. Since no action was taken, they filed the OA seeking an appointment in Gr. C post on compassionate ground in favour of applicant No. 2 being member of the family whose land was taken over in connection of the a railway project. During the pendency of the OA, an employment notice was issued on 2.5.98 by

S.E.Railway regarding recruitment of Gangman in Kharagpur Division on direct recruitment basis. By filing a supplementary application, it was prayed that applicant No. 2 was entitled to preferential treatment in the matter of employment as Gangman.

3. This Tribunal while disposing of the OA found that as per circulars relied on by the applicants, two years limit was provided for seeking such appointment. It was therefore observed that the applicants filed the OA in 1997 whereas the land was taken in the year 1981-82 and since two years had already passed, and the application having been filed long 15 years thereafter in 1997, therefore, it was barred by limitation.

4. In the RA it is contended that in similar circumstances, this Bench of the Tribunal issued direction for consideration of the cases of the applicants of OA 982 of 1997 decided on 26.2.04 and OA 1195 of 1999 decided on 3.5.05. It is therefore urged that similar order should have been passed by giving a direction to the General Manager, SE Railway to consider the case of the applicant No. 2. It is further contended that in the relevant circular dt. 1.1.83, which was quoted in the order under review at para 5, it was provided in clause (3) that such benefit of employment will be limited to recruitment made from outsider in direct recruitment categories and to the first recruitment or within a period of two years after the acquisition of the land whichever was later. By referring to the decision of the Tribunal in OA 982/97 (supra) it is argued that the General Manager, SE Rly. while complying with an earlier direction of this Bench in OA 1335 of 1997 dt. 29.7.99 admitted that the no open market recruitment had been made to meet the requirement of staff in the Tamluk Digha Project and therefore it was observed that the case of the applicant of that OA would be considered along with others as and when the first recruitment was done to fill up the vacancies of the Tamluk Digha section from amongst the eligible family members of the land oustees. It is therefore contended that the case of the present applicants should also be considered on similar footing and therefore the decision 21.6.05 passed in the instant OA be reviewed and recalled and fresh hearing be made to pass similar direction.

5. The respondents have filed a reply wherein it is contended that the OA was barred by limitation and therefore it was rightly dismissed.

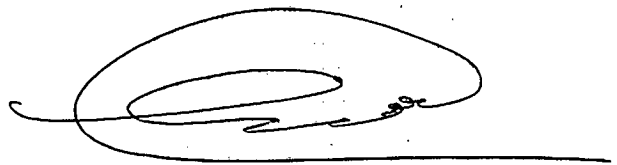
6. We have considered the matter carefully. The scope of review is very limited. The Tribunal can review its order only when there is an error apparent on the face of the order or if new or important evidence is produced which could not be produced earlier inspite of exercise of due diligence.

7. In the instant case, the applicants want to review the order mainly on the basis of two judgements of this Tribunal passed in similar cases viz. OA 982 of 1997 and OA 1195 of 1999. However, on going through these two decisions, we do not find how they will be of any help to the applicant. Firstly, in the OA the applicant No.2 has claimed appointment in Gr. C post on the ground the land belonging to his father was taken in acquisition in connection with construction of a project and as per Rly. Board's order employment assistance is admissible to him. In the supplementary application, he has prayed for preferential treatment for appointment as Gangman in terms of employment notice of 1998. The bio-data of applicant No. 2 in whose favour appointment is claimed is not indicated anywhere in the application . It is not also stated whether he is eligible or not as per rules. In both the cases relied on by the applicant, no direction was given for granting any employment. It was only directed that as and when recruitment of such category would take place, the case of the applicant would be considered in terms of recruitment rules. Therefore, facts are distinguishable and hence there was no error on the face of the order is apparent requiring a review of that decision. The two judgements (supra) now produced cannot also be construed as new evidence to bring this matter within the purview of Order 47, Rule 1 of CPC.

8. In that view of the matter, we do not find any merit in this RA and accordingly it is rejected. However, it will be open to applicant No. 2 to apply as and when recruitment is made from amongst displaced persons category and if he is otherwise eligible as per rules, his case may be considered by the respondents. No costs.



MEMBER(A)



VICE CHAIRMAN