

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

O.A. 982/1997

Date of order: 26.02.2004

Present : Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.
Hon'ble Mr. S. Biswas, Administrative Member.

Kartick Bar & Anr.

- Versus -

Union of India and Ors.

(S.E. Railway)

For the applicant : Mr. A. Chakraborty, counsel.

For the respondents : Mr. S. Chowdhury, counsel.

O R D E R

Per Justice B. Panigrahi, VC

In this case there has been a prayer of applicant No.2 for being appointed on compassionate ground i Gr.C post in the S.E. Railway as the member of the family displaced as a result of acquisition of land for establishment of Railway Project in between Abada and Sankrail.

2. The respondents, however, does not dispute about their order dated 1.1.83 whereby it has been indicated that:-

"(1) Your attention is invited to Board's letter No.71/W2/12 /7 dated 1.5.1973 enclosing a copy of letter dated 18.11.1972 received from the Ministry of Agriculture (Department of Agriculture) regarding implementation of recommendations made by the Land Acquisition Review Committee on the question of Government's responsibility for rehabilitation of evicted families as a result of acquisition of land for Projects and also letter No. 82/W2/12/15 dated 7.8.1982 enclosing a copy of D.O. letter dated 18th June 1982 received from Secretary, Rural Development, Govt. of India. In these letters certain guidelines have been laid down in regard to offer of employment of persons displaced as a result of acquisition of land for Projects. Since certain references are being received from some of the Railways with regard to the exact scope of these instructions regarding employment of displaced persons on the Railways, the following guidelines are being issued.

(2) The Zonal Railways and Production Units and also Project authorities may consider applications received from persons displaced on account of large-scale acquisition of land for Projects on the Railways for employment of the

displaced person or his son/daughter or wife for employment in Group 'C' Or Group IV posts in their organisation including engagement of casual labour and give them preferential treatment for such employment, subject to the following conditions:-

1. The individual concerned should have been displaced himself or he should be the son/daughter/ward/wife of a person displaced from land on account of acquisition of the land by the Railways for the Project.
2. Only one job on such preferential treatment should be offered to one family.
3. This dispensation should be limited to recruitments made from outside in direct recruitment categories and to the first recruitment or within a period of two years after the acquisition of the land, whichever is later.
4. It must also be ensured that the displaced person did not derive any benefit through the State Government in the form of alternative cultivable land etc.
5. The person concerned should fulfil the qualifications for the post in question and also be found suitable by the appropriate recruitment committees. In the case of Group 'C' posts for which recruitment is made through the Railway Service Commission, the Chairman or the Member of the Railway Service Commission should be associated in the recruitment.

(3) You are requested to send for the information of the Board the particulars of persons recruited under these orders as and when such recruitment is made."

Only objection has been taken by the respondents that the claim of the applicants

seems to be barred by limitation. We do not, however, appreciate such objection taken by the respondents. As long as the applicant's case has not been considered nor any Advisory Committee has been constituted, the applicant No.2 has a right to renew his prayer. Accordingly, we direct the respondents to forward the case of the applicant for being considered along with all other suitable candidates before the Local Advisory Committee. The Local Advisory Committee shall consider the case of the eligible candidates and necessary steps be taken in that regard. We find that in a similar situation also, the General Manager, S.E. Railway has considered the grievance of another applicant and passed the following orders:-

"..... I, the General Manager, S.E. Railway (respondent No.1) have examined the case of applicants keeping in view the observations made by the Hon'ble Tribunal and in reference to the policy guidelines laid down by the Railway Board. Applicant has claimed employment on the basis of the Estt. Sri. No. 297/89, which, in effect, is not a notification for the recruitment. In fact, Estt. Sri. No. 297/89 lays down the procedure for extending the employment assistance to an eligible member of the family, whose land has been acquired.

As per paper available in this office, I find that no open market recruitment has been made to meet up requirement of staff in the Tamluk-Digha Project. In fact, no permanent posts have been created against this project. The scanty requirement of casual labour was met by diverting the existing project casual labour from other project. For this reason the claim of the applicant could not be considered.

However, his case would be considered, along with other similarly placed persons, as and when the first recruitment is done to fill up the vacancies of the Tamluk-Digha section from amongst the eligible family members of the land oustees. This will be subject to his fulfilling the prescribed criteria for direct recruitment from open market.

This is in compliance to the order dated 29.7.99 passed by the Hon'ble CAT/Calcutta in the O.A. No. 1335/97."

3. In that view of the matter, we also hereby direct the General Manager, S.E. Railway to consider the applicant's case and take a reasonable decision in accordance with the rules within four months from the date of communication of this order.

4. With the above observation, the application is disposed of. No costs.

S. R.

Member (A)

B. Banerjee

Vice-Chairman.