

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 515 of 2012

Wednesday, this the 12th day of June, 2013

CORAM

**HON'BLE Dr. K B S RAJAN, JUDICIAL MEMBER
HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

1. Mrs. Jospin,
Thyvilagam House,
Pallithura P.O.,
Thiruvananthapuram : 695 586
2. Mr. Antony Gilbert,
Puthuval Purayidam, Pallithura P.O.,
Thiruvananthapuram : 695 586
3. Ranjith Stephen,
S/o. Stephen Rozario,
House No. 131, Pallithura P.O.,
Thiruvananthapuram : 695 586 Applicants.

(By Advocate Ms. Mary Benjamin)

v e r s u s

1. Union of India represented by
The Secretary, Department of Space,
Government of India, New Delhi.
2. The Vikram Sarabhai Space Centre,
Represented by its Director,
Indian Space Research Organization,
Thiruvananthapuram.
3. The Chief Controller,
The Vikram Sarabhai Space Centre,
Indian Space Research Organization,
Thiruvananthapuram : 695 022
4. Head, Personnel & General Administration,
The Vikram Sarabhai Space Centre,
Thiruvananthapuram : 695 022 Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This original application having been heard on 05.06.2013, the Tribunal on 12.06.13 delivered the following:



ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member -

The applicants are third generation descendants of evictees from the land acquired for Vikram Sarabhai Space Centre (VSSC) at Thiruvananthapuram more than 40 years ago. In a meeting held on 03.06.1970 in the office of the Director at Thumba under the presidentship of late Dr. Vikram A Sarabhai, the then Chairman of ISRO, with the Pallithura Veli Welfare Associations Co-Ordination Committee, a consensus was reached that one member from each evicted family shall be considered for suitable employment in VSSC against Group 'C' and 'D' posts based on their qualifications, without being sponsored through Employment Exchange within the first three generations, against vacancy and subject to fulfilment of all other requirements for the post by the candidates and following all requirement procedures. Though the applicants have submitted applications on various occasions for employment under the respondents, no employment is given till date. Aggrieved, they have filed this O.A for the following reliefs:

- (i) To issue a writ of mandamus or any other appropriate writ, direction or order commanding the respondents to appoint applicants under them in terms of Annexure-A1 Scheme;
- (ii) To declare that the applicants are entitled to get appointment under the respondents;
- (iii) To get such other relief as this Hon'ble Tribunal may deem fit grant in the circumstances of the case;
- (iv) To award to the applicant cost of this proceedings.

2. The applicants submitted that they are grand children of original evictee and the benefit of of Annexure A-1 scheme is applicable only upto the



3rd generations of the evictee. If the employment is denied to them, the chances of getting any employment as per the scheme shall be denied to the applicants, families for ever. The delay in giving employment will deprive them of any other employment as they will get over aged. The respondents have no case that the applicants are not eligible for appointment.

3. The respondents in their reply statement submitted that the consensus reached with late Dr. Vikram A Sarabhai is being honoured and that the descendants of evictees are being considered for employment along with others, without being sponsored through the Employment Exchange. As regards the 1st applicant, all documents except the affidavit abrogating the claim for employment under eviction status from all descendants of original evictee Shri Thoman John Fernandez and the certificate issued by the competent authority with details of family members clearly depicting the descendency of the applicant have been received by the respondents. Vide letter dated 09.07.2012 (Annexure R-2), she has been asked to submit the same. The 2nd applicant has not applied to the respondents' organization for employment under eviction status. The application without date from the 3rd applicant was received in VSSC on 09.08.2011. Vide letter dated 14.11.2011, he has been asked to submit the eviction certificate in original and also no objection certificates from all the descendants of Shri Abraham Rozario and Smt. Mariam Rozario duly attested by notary public to consider him for providing employment. The respondents submitted that for the purpose of consideration under the evictee status, the candidates have to submit all relevant documents/ affidavits/certificates. The 1st and 3rd applicants have not submitted the required certificates for examining their

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candidature for employment under eviction status. The respondents have to follow the laid down recruitment norms/guidelines meticulously. The applicants are required to fulfil all the recruitment norms prescribed for the post for which they are being considered and also to undergo all the selection procedures. For consideration of a particular person from an evicted family, all other members in the three generations have to abrogate their claims in favour of such person. An affidavit executed and signed by the person and other family members to that effect is essential for consideration for employment under eviction status. Consideration of a person without producing such an affidavit would be illegal and the matter would become arbitrary if any other persons from such family later on raise their claims for employment under eviction status. The applicants have no legal or vested enforceable right to get employment in the respondents' organization.

4. In the rejoinder statements, the applicants submitted that it is not possible for the 1st applicant to obtain affidavits from the children of the original evictee Mr. Thomman John Fernandez as all of them are employed in Gulf. All the 03 applicants come within the first three generations of the original evictee. The intention of Annexure A-1 is to help those persons who surrendered their land for a valuable cause and to whom the compensation made was meagre. The 2nd applicant had submitted Annexure A-6 representation. He had made a complaint to the postal authorities, a copy of which is produced as Annexure A-8. The first generations of the evictee are no more and the respondents are strangely insisting for a certificate from the dead. One Smt. Sobhitha, one Joseph A and one Antony Fernandez were given appointment without production of such documents as are required

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from the applicants..

5. In the affidavit filed by the 1st applicant, it was submitted that the respondents had asked for affidavits only from the sisters/brothers, if any, of Smt. Mary Angel (Annexure A-18). The applicant has made a paper publication in the Mathrubhoomi daily dated 14.05.2013, seeking objections against applicant's getting employment under evictee status. Other applicants have also joined the the 1st applicant in making the paper publication. In the light of Annexures A-16 and A-17, it was proved that Annexure A-6 has already been delivered to the respondents as early as on 01.12.2012, in respect of the 2nd applicant. The 3rd applicant in his affidavit has stated that some of his relatives have migrated to Malaysia in 1960 and their whereabouts are not known to him and that they are no more Indian citizens.

6. In the additional reply statement filed by the respondents, it was submitted that a candidate should produce a certificate by Revenue Authority stating that he belongs to the evicted family, proof of date of birth, qualification, experience etc., affidavits from all descendants of the 1st, 2nd and 3rd generations of the original evictee and a certificate issued by the competent authority with the details of all family members clearly depicting the dependency of the candidate with the original evictee. Without these certificates, the respondents cannot consider their applications for employment. The respondents have been registering the persons under evictee status for employment subject to the production of the various certificates as intimated to the applicants. All legal heirs have equal rights to



be considered under eviction status and, therefore, the respondents are not in a position to consider the cases wherein the required affidavits for all the descendants are not produced. Annexure A-6 letter claimed to have been sent by the 2nd applicant is unsigned, undated and the same has never reached the respondents. The personnel who are employed under eviction status in the respondents organization were also considered based on the production of the required documents/certificates as sought from the 1st and 3rd applicants. The procedure being so, the respondents cannot exempt the applicants from the requirement of producing the relevant essential documents to substantiate their claims. The applicants have failed to furnish the documents and thus they themselves became non-entitled to be considered for employment under evictee status.

7. We have heard Ms. Mary Benjamin, learned counsel for the applicant and Mr. Sunil Jacob Jose, learned SCGSC appearing for the respondents and perused the records.

8. As per Annexure A-1, the consensus arrived at, in the meeting held on 03.06.1970 was that ISRO (VSSC) would give preference to the qualified candidates in case of evicted persons including their descendants falling within three generations while screening the applications for calling for interview for appointment, but there would be no reservation or guarantee of employment and that selection would entirely be dependent on the recommendations of the selection committee. The reply statement filed by the respondents shows that the aforesaid preference is limited to one member from each evicted family within three generations for suitable employment in

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VSSC against Group 'C' and 'D' posts without being sponsored through Employment Exchange, against vacancies and subject to fulfilment of all other requirements for the posts. There is no dispute over the above factual position.

9. The preference to be given to only one member of the evicted family within three generations is the procedural relaxation of by-passing the Employment Exchange for calling for interview to assess the merit of the candidates by the selection committee for appointment against vacancies in Group 'C' and 'D' posts. As there is no reservation or guarantee of appointment, the candidates with evictee status are not invested with any legally enforceable right. Since there is no right that can be renounced in favour of one or other candidate with evictee status, the demand made by the respondents to produce the affidavits abrogating the claim for employment under evictee status from the descendants of the original evictee within three generations has no legal validity in the eyes of law.

10. As the procedural relaxation of by-passing the Employment Exchange is limited only to one member in three generations, it cannot be distributed among the legal heirs of the evictee. The principle that should be applied in the instant case should be 'first come first served'. This is in the over all interest of the evictee family because earlier a member of an evictee family gets a job the better. Only one of those who apply for a job in the VSSC from among the descendants of the original evictee has a claim to seek procedural relaxation in case it is not already availed of. Therefore, it is unreasonable that the 1st and 3rd applicants are sent on a wild goose chase



for procuring affidavits from potential evictee status candidates who have not even applied for a post in the VSSC in the first instance. All that the respondents are required to do is to confirm that an applicant has the status of evictee and that the preference in respect of his family is not already availed of. The respondents are beneficiaries of the land acquired from the original evictee. A pro-active and dynamic administration would have, in grateful remembrance of the sacrifice made by the original evictees in surrendering their precious land and livelihood to the respondents' organization in national interest for a meagre amount of compensation, identified the evictee families at intervals, who did not avail of the preference and kept them informed so that the preference should have got consumed as early as possible.

11. In the instant case, the 1st and 3rd applicants have already applied for employment in the VSSC and submitted proof of their being the descendants of the original evictee. The respondents should verify their evictee status and whether the preference in respect of the family of each applicant is consumed earlier or not. If it is not consumed, they are entitled to the preference of by-passing the Employment Exchange.

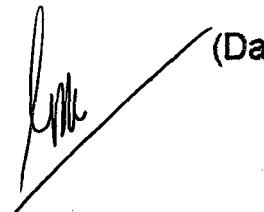
12. As regards the 2nd applicant, in the light of submissions made, it is not conclusively proved that he made a proper application duly signed by him to the respondents. He is well advised to apply for a job, if he so desires.

13. In the light of the above discussion, the O.A is allowed as under. The respondents are directed to consider the applications of the 1st and 3rd

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applicants for employment in their organization under evictee status without asking for affidavits from the descendants of the original evictee, within a period of two months from the date of receipt of a copy of this order. The case of the 2nd applicant also should be considered in the like manner within two months of receipt of his application. No costs.

(Dated, the 12th June, 2013)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


Dr. K.B.S. RAJAN
JUDICIAL MEMBER

CVR.