

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA.Nos.021/00368, 00369 and 00370/2015

Date of C.A.V.:09.02.2018

Date of order :08.03.2018

O.A.No.021/00368/2015.

Between :

1. N.Satyanarayana Reddy, aged about 44 yrs,
s/o Sri N.V.Ramana Reddy, Ammagari pall (post),
Aswapuram (Mandal), Khammam District,
Telangana State-507 116.

2. N.V.Ramana Reddy, aged about 69 yrs,
s/o Sri Rami Reddy, Ammagari pall (post),
Aswapuram (Mandal), Khammam District,
Telangana State-507 116.

....Applicants

AND

1. Union of India, rep., by the Secretary to
Govt. of India, Dept. Of Atomic Energy,
Anushakthi Bhawan, CSM Marg,
Mumbai-400 001.

2. Heavy Water Plant (Manuguru),
rep., by its Chief General Manager,
Dept. Of Atomic Energy, Govt. of India,
Gauthami Nagar (P), Aswapuram (M),
Khammam Dist.-507 116.

3. The Collector, Government of Telangana,
Khammam District, Khammam (TS).

....Respondents

Counsel for the Applicants : Mr.T.Koteswara Rao

Counsel for the Respondents : Mr. V. Vinod Kumar, Sr. CGSC.
: Mrs.G.Manjula, SC for State of Telangana

O.A.No.021/00369/2015.

Between :

1. Bathula Satyanarayana, aged about 38 yrs,
s/o B.Venkata Ramana, Aswapuram (post),
Aswapuram (Mandal), Khammam District,
Telangana State-507 116.

2. Bathula Venkata Ramana, aged about 56 yrs,
s/o Sri Veerananarayana, Aswapuram (post),
Aswapuram (Mandal), Khammam District,
Telangana State-507 116.

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Khammam District, Khammam (TS).

....Respondents

Counsel for the Applicants : Mr.T.Koteswara Rao

Counsel for the Respondents : Mr. V. Vinod Kumar, Sr. CGSC.
: Mrs.G.Manjula, SC for State of Telangana

O.A.No.021/00370/2015.

Between :

1. S.Vijender Reddy, aged about 45 yrs,
s/o Sri S.Subba Reddy, Kummarigudem,
Aswapuram (Mandal), Khammam District,
Telangana State-507 116.

2. Sri S.Subba Reddy, aged about 69 yrs,
s/o Sri Veera Reddy, Kummarigudem,
Aswapuram (Mandal), Khammam District,
Telangana State-507 116.

....Applicants

AND

1. Union of India, rep., by the Secretary to
Govt. of India, Dept. Of Atomic Energy,
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Khammam Dist.-507 116.

3. The Collector, Government of Telangana,
Khammam District, Khammam (TS).

....Respondents

Counsel for the Applicants : Mr.T.Koteswara Rao
Counsel for the Respondents : Mr. V. Vinod Kumar, Sr. CGSC.
: Mrs.G.Manjula, SC for State of Telangana

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)
THE HON'BLE MRS. MINNIE MATHEW, MEMBER (ADMN.)

: ORDER :

{ Per Hon'ble Mrs. Minnie Mathew, Admn.Member }

As the facts and issues in these OAs are similar, we dispose of the same by this common order.

2. The Heavy Water Plant, Manuguru (HWPM) acquired approximately 2500 acres of land in Khammam district for construction of Heavy Water Plant and residential colony during 1984-86. Compensation as fixed by the Special Land Acquisition Officer was paid to all persons whose Patta lands were acquired. Although there is no provision for providing employment to land losers under the Land Acquisition Act, HWPM has given employment to land losers as per the guidelines issued vide Annexure.R-I Circular dated 30.09.1986 issued by

Joint Collector, Khammam, Govt. of Andhra Pradesh. The guidelines laid down by the State Government inter-alia stipulate that not more than 50% of the total vacancies of Junior Assistant/ Typist and below cadres are to be filled by land losers. The lands of the applicants herein were acquired by HWPM. They were, however, not provided employment. According to the respondents, 339 land losers registered their names for employment as against 369 land losers. 185 land losers were provided with employment in HWP, Manuguru under Land Losers' Quota in identified categories as spelt out in the Joint Collector's Circular dated 30.09.1986. Further, on receipt of persistent requests received from the remaining land losers for employment in HWP, Manuguru, the Department of Atomic Energy decided to consider a few more cases for employment under the land losers' quota as a special case and directed the 2nd Respondent to obtain applications from 62 land losers who were meeting the norms for the post of Work Assistant/A in the Pay Band of Rs.5200– 20200/- with Grade Pay Rs.1800/- with minimum educational qualification of 10th standard pass and a minimum age of 18 years and a maximum age of 27 years for General candidates, with relaxation of 5 years for SC/ST and 3 years for OBC candidates. It was however conveyed that no relaxation in age and educational qualification can be considered. The applicants who are in the list of 62 land losers were informed of the said decision vide impugned Annex.A-1 letter dated 12.02.2015.

3. The Applicants in these OAs are aggrieved by the aforesaid letter dated 12th February, 2015 wherein they have been informed that no relaxation

can be given in respect of educational qualifications and age and that overaged eligible land losers will be allowed to apply for job in the name of son/ daughter/ spouse/ grandson or granddaughter. They submit that because of the delay that has been caused by the respondents in providing employment, they have become over aged and their children are minors who will not be eligible for employment.

4. The main contentions of the 1st Applicants in these OAs are that they were interviewed way back in 1991 and were included in the panel list recommended by the Selection Committee for providing employment to the land losers. As per Annex.-3 Minutes of the Selection Committee dated 14.07.1991, all the land losers have to be accommodated in any of the suitable positions in the Plant subject to meeting all other requirements. The Committee had also recommended that the seniority for appointment in each category should be decided on the basis of the date of acquisition of land and wherever the dates of acquisition happened to be the same, it should further be based on the extent of land acquired. The applicants also point out that the District Collector, Khammam, vide Annexure.IV letter dated 24.10.2008, had requested the 2nd Respondent either to provide employment to land losers/ nominees in a time bound manner or provide one time settlement package expeditiously and that their names were placed in the list forwarded by the District Collector, Khammam. Thus, when their names had figured in the Select List on 14.07.1991 and when providing employment is part of the agreement between the respondent organization and the land losers, they have acquired a

vested right to employment and cannot be deprived of their right to livelihood by citing age restriction. They also submit that the Respondent Organization cannot alter the conditions of recruitment since their selection was completed in 1991 itself. Further, they are in the age of 40-45 years and since their children are around 10-12 years, they would not be eligible for employment as stipulated in the impugned order.

5. The Respondents on the other hand have stated that there was no formal agreement between the land losers and the HWP to the effect that employment would be provided to the land losers or the members of their family. However, the guidelines issued by the State Government were being followed as far as possible to provide employment to the land losers. The guidelines inter alia state that while filling up vacancies of posts equivalent to Junior Assistant/Typist and below cadres, preference should be given to the eligible displaced persons or their dependents and that not more than 50% of the total vacancies in these categories should be filled by the land oustees. Further, the recruitment shall be made by giving preference for the land oustees according to the date of acquisition of their land. They also submit that by providing employment to 185 land losers in Clerical as well as Group-D posts, HWPM has already provided employment beyond the stipulated 50% posts. Further, 62 land losers could not be considered for want of vacancies in the Plant. In pursuance of a request made by the District Collector, Khammam, in a meeting held on 04.05.2013, it was decided to obtain applications from the remaining 62 land losers subject to

fulfilment of age and educational norms. The applicants who are included in the list of 62 land losers are covered by this decision. They were therefore informed that since no relaxation can be given in respect of age and educational qualifications, overaged eligible land losers were given an opportunity to nominate their spouse, son, daughter, grandson or granddaughter provided they satisfy the norms for the post.

6. The Respondents also pointed out that some land losers had earlier filed O.A. No.69/2010 before this Tribunal, which was disposed of by Annexure.R-4 orders dated 03.06.2011. They also relied on the orders of the Hon'ble High Court in PIC No.378/2013 in which in a similar case the Hon'ble High Court had held that no specific right has been made out to get employment in addition to the payment of compensation for the land acquired by the respondent authorities. The judgment is extracted hereunder:

“In this petition, we do not find any specific right having been made out to get employment in addition to the payment of compensation for the land acquired by the Respondent authorities. The land was acquired long back. It is alleged in the Writ Petition that an assurance was given by the respondents for providing employment to one of the members in families of displaced persons. As such we do not find any enforceable right at present in the Writ Petition. But, taking on humanitarian ground and considering the predicament faced by the displaced persons, we direct the respondent authorities to treat the Writ Petition as a representation and consider the case of petitioners for compassionate appointment, if possible. This shall be done within 10 weeks from the date of communication of this order. With the above observations, the Writ Petition is disposed off. There will be no order as to costs.

Consequently, PILPM No.569 of 2013 filed by the petitioners for interim relief, stands closed.”

In the light of this judgment, this Tribunal disposed of OA.No.348/2013, OA.No.402/2013, OA.No.494/2013 and batch. Hence, these OAs are also liable to be dismissed.

7. The applicants have filed a rejoinder statement pointing out that among the first 20 candidates, who were provided employment based on District Collector's letter dated 16.05.2008, the lands of the persons placed at Serial Nos.2, 4 to 9, 11 and 13 to 20 were acquired after their (applicants') land was acquired and hence they (applicants) are seniors to the aforesaid persons who have been provided employment. Thus, the action of the respondents in ignoring their claims is patently arbitrary and malafide. The applicants cannot be punished for the mischief caused by the respondents.

8. Heard the learned counsel on both sides and perused the record.

9. The learned counsel for the Applicants relied on judgement of the Hon'ble Calcutta High Court in *Dilip Kumar Roy vs Eastern Coalfields* dated 30.01.2004 in which it has been held as follows:

“9. In my view, therefore, the ground on which petitioner has been denied appointment cannot be sustained. It must therefore be held that the delay has been occasioned by the respondents in considering the case of the petitioner when the application has been made as far back as in 1998 and requisite police report has been obtained as far back as on June 19, 1998. The form 'B' which was required to be filled in by the Colliery Officers was done only on February 17, 2000. It has taken over 3 & 1/2 years for the respondents to consider the case of the petitioner and for that delay on the part of the respondents petitioner cannot be either penalized nor can the policy which is prospective be made applicable in his case.

10. Accordingly, impugned order is set aside and respondents are directed to consider the matter with regard to grant of appointment to the petitioner in terms of the guidelines existing at the time the application of the petitioner was registered, such exercise shall be completed expeditiously and preferably within a period of 4 (four) months from date hereof.”

He, therefore, argued that in the cases of the Applicants also the delay has been caused by the respondents. As such, they are covered by the ratio in the aforesaid judgement and are entitled to get employment with reference to the dates on which they were first recommended for appointment. He further furnished the details of 7 persons whose lands were acquired subsequent to the date of the acquisition of the lands of the applicants and who have been provided employment even though seniority has to be reckoned with effect from the date of land acquisition.

10. The learned Standing Counsel was directed to get instructions on the specific plea raised by the applicants against one Shri T.Ramachary whose lands were acquired after the acquisition of the lands of the applicants and who was admittedly provided employment. The Standing Counsel produced a copy of the written instructions in which it has been stated that when Shri T.Ramachary was appointed, the Committee considered age at the time of acquisition of the land from the land losers. Further, 41 land loser certificates had not been verified by the District authorities and that the applicant in OA.No.368/2015 is one of them.

11. The issue arising for consideration in these OAs are whether there is justification for not considering the applicants' case for employment in HWPM on the ground that they are over aged.

12. From the material on record , it is an admitted fact that the HWPM has taken into consideration the guidelines issued by the State Government for providing employment to persons who have been ousted from their lands on account of acquisition of their lands for a project/industry. Based on these guidelines, a list of 339 land losers was prepared. Out of the 339 land losers, 185 land losers were provided with employment in identified categories as spelt out in Joint Collector Circular dated 13.9.1986. The respondents also took a decision to consider a few more cases for employment under land losers quota as a special case based on the request of the District Collector, Khammam. In pursuance of this decision, the applicants, who figured in the list of 62 land losers who were not provided employment, were asked to submit their applications with the condition that no relaxation in the age and educational qualifications would be considered.

13. The 1st applicants in OA.Nos.368 and 370/2015 were admittedly recommended by the Selection Committee on 13 and 14.07.1991 based on their educational qualifications, past experience and performance in the personal interview for appointment to the post indicated against each of them and are placed at Serial Nos.105 and 106 of the list of persons recommended. As far as the applicant in OA.No.369/2015 is concerned, respondents have categorically stated that he was not nominated for employment in 1991 and that the name shown at Serial No.6 of Annexure.III pertains to another candidate by the same name who is the nominee of Shri B.Rama Rao land loser. After perusal of the record, we are inclined to agree with the respondents in this regard.

14. It is further seen that even though the applicants in OA.No.368/2015 and OA.No.370/2015 were recommended for appointment way back in 1991, they were not provided appointment as the respondents have taken the stand that they have filled up almost 61% of the posts from among land losers as against the stipulated percentage of 50% posts to be provided to land losers. Subsequently, a Screening Committee screened a list of 79 genuine land losers certified by District Collector, Khammam, and finalized a list of 81 genuine persons for providing employment in HWPM as per Annexure-C statement appended to the District Collector's letter dated 10.05.2008. The 1st applicants in all the OAs figure in this list. Thereafter, the respondents decided to provide employment to some more people, and applicants' names were again considered and applications were invited from them. However, on account of the fact that they were over aged and that their children were minors, they would not be considered.

15. The applicants contention is that they should not be penalized for the administrative delay that has occurred in providing them employment, particularly when they were found eligible in 1991 itself. We find considerable force in this contention and hold that the delay that has occurred cannot be held against the applicants and that they are squarely covered by the ratio laid down by the Hon'ble Calcutta High Court in Dilip Kumar Roy vs. Eastern Coal Fields Limited and as extracted in Para 10 supra.

16. The respondents contend that the applicants could not be offered appointment since they had already filled up 185 posts from among land losers, whereas they are required to fill up not more than 153 posts. They further contend that 62 land losers in the list could not be considered for want of vacancies in the Plant. The aspect regarding availability of vacancies was considered in OA.No.69/2010 and this Tribunal had given the following finding :

“After considering the above information (A-XI) dated 14.05.2009 it seems that the total vacancy position is more than 600 and accordingly the respondents should have given appointments to the land losers at least 300 posts i.e. as per the 50% policy. But as per the contentions of the respondents it is an admitted position that they have given only 174 posts to the land losers. In view of the information given by the respondents under Right to Information Act, and after considering their contentions, we are of the opinion that as per the guidelines and as per the modalities and proceedings issued by the Government of A.P. at Annexure.A-II, the respondents ought to have appointed another 126 people under land losers quota. Since the applicants' names were already figured in the list at Annexure.A-I, they are all entitled to get employment under the land losers quota.”

17. Thus, the availability of posts for employment to land losers is no more res integra in view of the aforesaid finding. As there is nothing on record to show that this order has been set aside or reversed, the admitted position is that in addition to the 174 posts already provided, at least another 126 persons should be appointed under land losers quota. Admittedly, the applicants herein figure in the list of 62 persons for

whom it was decided to provide employment and their cases would have been considered but for the fact that there is no relaxation for age.

18. One of the important grounds raised in these three OAs is that their lands were acquired on 05.01.1987, 06.08.1983 and 01.01.1987 respectively and that the lands of the candidates at Serial Nos.2, 4 to 9, 11 and 13 to 20 were acquired after the acquisition of their lands. According to the guidelines in force, the seniority of the land losers has to be reckoned with effect from the date of acquisition of the land. As the applicants lands were acquired earlier, they are seniors to the persons at the aforementioned Serial Numbers. Thus, providing jobs to the said land losers by ignoring the claim of the applicants is arbitrary and mala fide.

19. The respondents have not furnished any reasons as to why the other land losers mentioned by the applicant in their rejoinder have been provided employment in preference to the applicants whose lands have been acquired earlier and when admittedly seniority for appointment in each category has to be decided on the basis of the date of the acquisition of their lands and not on any other criteria. In the absence of any satisfactory explanation, we find merit in the applicants' contention that the action of the respondents is arbitrary and unjust. While the applicant in OA.No.369/2015 was not in the list finalized by the Selection Committee on 14.07.1991, his lands were acquired on 06.08.1983 which is earlier to others at Serial Nos.2, 4 to 7, 11, 13 to 20 on page 20 of the OA and the respondents have no satisfactory explanation as to why his seniority in terms of acquisition of the land has not been taken into consideration and as to why he was not given employment while providing employment to the persons at the aforementioned Serial Numbers. Therefore, he would be entitled for consideration on this ground. It is necessary to observe that the respondents

have relied on the judgment of this Tribunal in OA.No.69/2010 in support of their action. However, a scrutiny of Annexure.R-4 reveals that the orders do not relate to OA.No.69/2010 but to C.P.No.1/2011 in OA.No.69/2010. A perusal of the actual judgment in OA.No.69/2010 would show that the applicants therein were aggrieved by not providing them employment in the respondent-organization. In the instant case, the grievance of the applicants is that as they were eligible as on 14.7.1991, their eligibility in terms of age and qualification should be considered with effect from that date and that they cannot be penalized in any way for the inaction of the respondents. Their grievance is also that they have been ignored while providing employment to their juniors. Thus, the applicants herein are on a different footing. Further, we note that this Tribunal has disposed of the said OA with a direction to the respondents to consider the cases of the applicants therein for appointment under the respondent-organization keeping in view the guidelines of the District Collector dated 30.09.1986 subject to fulfilment of other eligibility requirements. The Review Application No.43/2010 filed by the respondents against the order in OA.No.69/2010 was dismissed on 07.12.2010. Thereafter, the applicants had filed a Contempt Petition alleging non-compliance of the orders of this Tribunal in OA.No.69/2010. The respondents are relying on the orders in the CP in which the Contempt Petition was closed taking into consideration the reply statement filed by the respondents. In our view such reliance is wholly misplaced because the limited issue that is considered in a CP is whether there has been deliberate and wilful disobedience of the orders of this Court. Mere closure of the CP would not amount to a reversal of the findings in the OA. As such, the orders in OA.No.69/2010 are in tact.

20. In response to the specific contention made in respect of one Sri T.Ramachary, the respondents have furnished written instructions, which have been taken as part of the record that while considering appointments, the committee considered the age of Shri T.Ramachary at the time of the acquisition of land from the land losers and that among those whose lands had not been verified by the district authorities, Sri N.V.Ramana Reddy, the 2nd applicant in OA.No.368/2015 was one of them. There is no explanation as to why there has been a deviation in the case of Shri T.Ramachary and as to why his age at the time of the land acquisition was taken into consideration and as to why the same benefit is being denied to the applicants, whose lands were acquired earlier and who were found eligible in 1991 itself.

21. In this view of the matter, we are inclined to dispose of these OAs with a direction to the respondents to re-consider the case of the applicants with reference to their juniors, who have been provided employment even though their lands were acquired later than the applicants and by considering the age of the applicants as on the date on which they were initially recommended for appointment. This exercise shall be completed and orders communicated to the applicants within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

(MINNIE MATHEW)
MEMBER (ADMN.)

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated: this the 8th day of March, 2018

Dsn.