

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

OA.No.021/1164/2017

Dated : 30/07/2018

BETWEEN

Ashok,
S/o. Chearaula Venkat Reddy,
Aged about 27 years,
Occ: Unemployed,
R/o. Jampalli Village,
Dharur Mandal and Post,
Mahabubnagar District – 509 125,
Telangana State.

....Applicant

AND

1. The Union of India rep. by
The Secretary, Railway Board,
Sanchalan Bhawan, New Delhi.
2. The South Central Railway rep. by
The General Manager,
Rail Nilayam Secunderabad.
3. Chief Personnel Officer,
South Central Railway Headquarters,
Personnel Branch,
Secunderabad.

.....Respondents

Counsel for the Applicant : Mr. Siva

Counsel for the Respondents : Mr. D. Madhava Reddy, SC for Rlys

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER
THE HON'BLE MRS. NAINI JAYASEELAN,ADMIN. MEMBER

ORAL ORDER

(Per Hon'ble Mr. Justice R. Kantha Rao, Judicial Member)

Heard Mr. Siva, learned counsel for the applicant and Mr. D. Madhava Reddy, learned Standing Counsel for Respondents.

2. Shri Ashok, the applicant is the land owner. At the instance of Railways, the Government of State of Andhra Pradesh acquired the land under the provisions of Land Acquisition Act for construction of Broad gauge line between Gadwal and Raichur. The necessary compensation as per the extant laws was paid to him as per the award by the competent authorities. Sl. Circular No.61/2006 dated 28.04.2006 provides for appointment in the Railways to the members of the Families Displaced for the purpose of establishment of projects. The Board has 'decided that no cognizance by way of offering employment to displaced persons should be given wherein only a strip of land [viz., for construction of a line] has been acquired but the same can be considered in Group 'D' posts only wherein large area, house or substantial livelihood has been taken away / snapped in the process'. It is also provided in the notification that 'offering appointment in Railways should be exception rather than a rule whenever any land acquisition takes place'.

3. The version of the applicant is that he submitted representations to the Respondent Railways for providing him employment under the quota of Land losers. But the same was not considered. The final representation submitted by the applicant, according to him, seems to be, dated

01.04.2013 but the same was not considered by the Respondent Railways.

4. Aggrieved thereby, he filed OA No.586 of 2013. Since the representations were pending with the Respondent Railways, The Tribunal passed the order dated 8.5.2013 directing the Respondents to dispose of the representations dated 14.10.2006 & 01.04.2013 by a reasoned and speaking order in accordance with the Rules within a period of six weeks from the date of receipt of a copy of the order.

5. In pursuance thereafter, the Respondents passed the impugned order dated 01.07.2013. The operative portion of the order reads as follows :-

“ From the above instructions, it is clear that the grant of employment to land loser is not a matter of right, but it is at the discretion of the administration taking into account various factors like, quantum of land acquitted, the loss of livelihood, the family members, etc. Normally when land is acquired, the only amount payable is the compensation as per the award of the Revenue authorities. In this case, Shri Ashok was paid Rs.1,37,750/- for the 1.18 acres of land acquired by the Railways. According to the investigation conducted by the Welfare Inspector, the family is still holding on 10 acres and are cultivating castor in the fields. Shri Ashok has studied M.B.A and currently working in a Chit Fund Company getting Rs.6500/- p.m. Shri Ashok is unmarried and has no other family members to look after. It cannot be said that his entire livelihood has been taken away because of the land acquired by the Railways. He still holds residual land getting some income on that. In addition, his parents also have land being cultivated. In this background, it cannot be said that the livelihood of Shri Ashok has been taken away and the appointment on account of acquisition of land in case of Shri Ashok does not arise.”

6. The rejection order was issued by the 3rd Respondent. According to the Respondents since the livelihood of the Applicant's family is not

affected by the acquisition of the Land and also have sufficient income for maintaining themselves, the applicant is not entitled for any employment under Land loser quota. It is also their contention that as per SI Circular No.61 / 2006, appointment in Railways should be exception rather than a rule.

7. Now the point for determination in the OA is whether the impugned order passed by the Respondent Railways requires to be set aside and direction needs to be issued to them to consider the case of the applicant for providing employment under land loser quota.

8. The acquisition of the land to an extent of 1.18 guntas of the Applicant and another 1.18 acres owned by his mother in Survey No.722/2 in Jampally (Vil.), Darur (Mdl), Mahaboobnagar district for the purpose of the Projects of Railways is not in dispute. That the Railways in their rejection order stated that, after acquisition also the land of 10 acres is still available with the applicant's family and the applicant is also employed in a private company and is earning Rs.6500/- p.m. The question would be, even if the applicant's family has some sustenance, the employment to the applicant under Land loser quota can be provided by the Respondents. It is to be decided basing on the SI. Circular No.61/2006.

9. It is also the contention of the Respondents that the land has been acquired in the year 2004 and after a lapse of 13 years, considering the case for appointment under land loser quota is beyond the scope of Railway

Board's letter RBE 99/2010, dated 16.07.2010 and also the Serial Circular No.61 of 2006 only states that offer of appointment to 'dis placed persons' should be exception rather than a rule.

10. Basing on these stipulations, the Respondents seem to have rejected the request of the applicant for employment under Land Loser quota. The Serial Circular No. 61 of 2006 does not indicate that if some land remained with the Land Loser and they have other source of income for their sustenance, they shall be denied appointment under Land loser quota. Therefore, we are of the view that the rejection order passed by the 2nd Respondent is not in accordance with Sl. Circular No.61/2006, the reason being even if some land is left over with the Land losers and they are getting some petty amount as monthly income, the appointment under Land loser quota cannot be denied.

11. Further, the relief cannot be rejected to the applicant on the ground of delay and latches and also on the ground that the applicant's family has some land even after acquisition and the applicant's family is getting income from the available land per annum and that the applicant is also working and is getting Rs.6500/- p.m.

12. As far as the other eligibility criteria is concerned, the Respondents did not mention in the rejection order that applicant was otherwise ineligible for the employment.

13. Therefore, we are of the considered view that the rejection order is

not in accordance with the Sl. Circular No.61 of 2006 and also RBE No. 99/2010 and the same is liable to be set aside in the present OA. Accordingly the impugned order dated 01.07.2013 passed by the 3rd Respondent rejecting the employment to the applicant under the Land Losers quota is hereby set aside. The Respondents are directed to consider the case of the applicant for a suitable post under Land Loser quota according to Sl. Circular No.61/ 2006 and pass appropriate orders within a period of two months from the date of receipt of a copy of this order.

15. The Original Application is allowed to the extent indicated above. No order as to costs.

(NAINI JAYASEELAN)
ADMIN. MEMBER

(JUSTICE R. KANTHA RAO)
JUDL. MEMBER

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