

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

C.P.No.260/54/2015
(Arising out of O.A.No.428/2012)

Date of Reserve:07.01.2019

Date of Order: 11.1.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Budhia Muduli, aged about 23 years,S/o. Sri ParsuramMuduli – resident of Village-Podapada, PO-Argul, PS-Jatni, District-Khurda.

...Petitioner

By the Advocate(s)-Mr.S.S.Das

-VERSUS-

1. Manju Rao, General manager (P), East Coast Railways, At/PO-Chandrasekharpur, Bhubaneswar, PS-Mancheswar, District-Khurda.
2. Sri S.K.Singh, Divisional Railway Manager, East Coast Railways, Khurda Road, At/PO-Khurda Road, PS-Jatni, District-Khurda.
3. Sri L.V.S.S. Patrudu, Divisional Pesonnel officer, East Coast Railways, Khurda Road, At/PO-Khurda Road, PS-Jatni, District-Khurda.

...Op.Parties

By the Advocate(s)-Mr.S.K.Ojha

ORDER

PER GOKUL CHANDRA PATI, MEMBER(A):

This Contempt Petition (in short CP) has been filed for non-compliance of the order dated 17.4.2015 passed by this Tribunal in O.A.No.428 of 2012, copy of which is annexed to the C.P. This Tribunal vide order dated 17.4.2015 disposed of the O.A.No.428 of 2012 in the following terms:-

"9.In the light of the discussions made above, Respondents are hereby directed to consider the case of the applicant in the light of the notification dated 16.07.2010 keeping in mind the order of the Hon'ble High Court of Orissa in the case of Krushna Chandra

Nayak (W.P.C.No.5102 of 2013) and communicate the result of such consideration to the applicant within an outer limit of 90 days from the date of receipt of a copy of this order".

2. Grievance of the applicant is that although the order has been communicated to the respondents, but no compliance has been made by them.

3. In response to notice, the respondents have filed a preliminary show cause reply on 2.5.2016 wherein it has been stated that in compliance of the above order, they have passed a speaking order dated 13.1.2016 (Annexure-X to the show cause reply), stating that in the year 1999 land acquisition process was initiated by the authorities of the State Government for construction of Khurda-Balangir Railway Link Project and the monetary compensation was given to the land losers' families by the Land Acquisition Officer for acquisition of their lands for the Project. The Railway Board issued instructions dated 16.7.2010 regarding the procedure to be followed for the employment assistance to be provided to the land losers for the Project. It was mentioned in the said notification that these instructions would not be applicable to those cases where land acquisition had been completed by way of possession of land by the Railways. It is stated that the respondents had taken the matter before the Hon'ble High Court and the Hon'ble Apex Court and after their cases were dismissed, the Railway Board reviewed the policy regarding employment assistance to the land losers. It is further stated that as per the order dated 16.7.2010, the Railways may invite and consider the applications for employment from land losers on account of the acquisition of land, provided that the applicant should fulfil the eligibility criteria and other conditions for the posts. In the speaking order dated 13.1.2016, it was informed that as and when the instructions of the Railway Board are received, applicant's case will be considered along with others.

4. Thereafter, the respondents filed another Affidavit on 26.9.2016 enclosing a copy of letter dated 23.9.2016 regarding verification of genuineness of land loser for the railway project. Further show cause reply was filed on 24.4.2018 informing that the case of the applicant has been examined and vide order dated 6.2.2018 and it has been found that the applicant is not eligible. It was submitted by the respondents that since the case of the applicant has been considered as per the direction of the Tribunal, it should be accepted as compliance.

5. The matter was heard on 07.01.2019. Learned counsel for the applicant, Shri S.S.Das argued that the case of the applicant has not been considered as per the direction of this Tribunal. He submitted that the Tribunal had directed to consider the case of the applicant in the light of the judgment of the Hon'ble High Court of Orissa in the case of Krishna Chandra Nayak in WP (C) No.5102/2013 and communicate the decision within 90 days from the date of receipt of copy of the order. While the matter has been delayed by more than three years, the respondents, after filing two show cause reply, have informed that the applicant was not eligible as the land in question was recorded in the name of one Kanchan Devi, from whom the grandfather of the applicant had purchased the land. Since the applicant was not the recorded owner of the land, he was found to be ineligible.

6. On the other hand, learned counsel for the respondents, Shri S.K.Ojha submitted that the case of the applicant has been duly considered in the light of the policy guidelines of the Railways. Therefore, the order of the Tribunal has been complied with. He brought to our notice the criteria as stipulated in letter dated 16.7.2010, which reads as under.

- i) The applicant shall be a person (sole owner of land or son/daughter/husband/wife of the sole owner) whose

and/or a person thereof has been acquired for the project. In case the land is owned by more than one person the /competent /authority, as defined in the Railway (Amendment) Act, 008/Land Acquisition Officer will decided who shall be considered as applicant. Only one job shall be offered to an applicant from the land loser family

- ii) It must be ensured that the displaced person has not received any land from the State Government in lieu of his/her land acquired/being acquired for the project.

7. As stated, the applicant should be the sole owner of the land or son/daughter/husband/wife of the sole owner and as per the circular dated 16.07.2010 of the Railway Board, it has not been extended to grandson. The direction of the Tribunal was to consider the case of the applicant in the light of the order dated 16.7.2010. In the speaking order dated 6.2.2018 of the Respondents the case of the applicant has been examined and the following findings have recorded.

"As such, in obedience to the above orders for examining your claim pursuant to notification of Railway Board dated 16.07.2010, the Land acquisition Officer, Khordha was asked to submit the land details and a departmental inquiry was also conducted to verify the genuineness of land records as well as your candidature. From the report submitted by the Spl. Land Acquisition Officer, Khordha vide letter dated 22.10.2016 and your depositions during inquiry held on 26.03.2017, it was revealed that the acquired land measuring total area A0.275 dcml. out of which A.0 110 dcml. pertains to Plot No.231(P), Khata No.17 and A.0.165 dcml. to Plot No.232, Khata No.33, Mouza-Kansapada under Jatani Tahasil in Khorda district stands recorded in the name of Kanchana Devi, W/o. Gobinda Rath. However, your grandfather, Sri Bhagabat Muduli, S/o.Gadei Muduli had purchased the aforesaid acquired land from Kanchan Devi, W/o. Gobinda Rath vide Sale Deed dated 23.01.1968. But, the lost land has never been recorded in your father's name prior to acquisition.

8. It is clear from the above that the applicant is not the sole owner or son or daughter of the sole owner of the land which has been acquired for the Railway Project. Hence, we are of the considered view that the order dated 17.4.2015 passed by this Tribunal in O.A.No.428 of 2012 has been

substantially complied. In view of this, the C.P. is dropped. Notice on the alleged contemnor(s) is discharged.

9. Free copy of this order be made over to learned counsels for the parties.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(J)

BKS

