

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
M.A.No.418/2018
(arising out of O.A.No.577/2018)

Date of Reserve:18.02.2019

Date of Order: 21.02.2019

CORAM:

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

Sonia Hanjaria, aged about 35 years, S/o. Dambu Hanjaria of Village-Padmapur, PS/Dist-Koraput.

...Applicant

By the Advocate(s)-Mr.C.A.Rao
-VERSUS-

Union of India represented through:

1. The General Manager, E.Co.Rly., Rail Sadan, Chandrasekharapur, Bhubaneswar-751 017, Dist-Khurda.
2. Chief Engineer(Construction), E.Co.Railway, At/PO-Laxmipur, Dist-Koraput, PIN-764 021.
3. Divisional Railway manager, E.Co.Rly.Waltair, Visakhapatnam, PIN-530 016.
4. Chief Personnel Officer, E.Co.Rly Sadan, Samanta Vihar, Bhubaneswar-751 017.
5. Special Land Acquisition Officer (Railway), At/PO/Dist-Koraput, PIN-764 021.

...Respondents

By the Advocate(s)-Mr.M.B.K.Rao

ORDER

PER MR.GOKUL CHANDRA PATI, MEMBER(A)

We heard the learned counsels for both the sides on M.A.No.418 of 2018 which has been filed by the applicant seeking condonation of delay in filing the present O.A.

2. Briefly stated, the applicant claims that his land was acquired by the respondents since 1985-86 for construction of Koraput – Rayagada Railway Line, for which his family's land to the extent of about Ac. 6.09 was acquired by the respondents and the compensation was paid to applicant's grandfather. The applicant was a minor at the time of acquisition of land. Subsequently, the applicant learnt that the respondents are providing employment to the families of land losers and he approached this Tribunal by filing the present O.A. (along with M.A. No.418/2018) for availing the employment benefit available for land losers.

3. In the M.A. No.418/2018 filed by him for condonation of delay, the applicant has urged the following grounds:

“That the applicant after attaining the age of majority in the year 2004 and at the time while continuing his study in the year 2011 came to know about the Hon'ble Apex Court's order in directing the Respondents to provide employment to the displaced persons, thereafter the applicant submitted his representation before the respondents stating therein that their family has also been aggrieved by such acquisition and more than 75% of their land has been acquired by the respondents for the Koraput-Rayagada Railway lines, but no one of their family has been provided job. Though, their only source

of income and livelihood has been lost and acquired, they are suffering since then”.

4. Respondents have filed an objection to the M.A. stating as under:

“That the O.A. as has been filed is grossly barred by time. It has been averred that the lands of applicant’s forefathers were acquired way back in 1985 and land acquisition compensation was received on 20.2.1985. After becoming major in 2004, the applicant represented for the first time in 2011 and has filed the instant OA in the year, 2018 claiming rehabilitation assistance.

As per Section 21 of the Administrative Tribunals Act, 1985, it is within a maximum period of 1 ½ years of making representation that the O.A. has to be filed which is not the case in hand”.

5. Respondents in their objection to M.A. have also referred to a decision of Hon’ble Supreme Court in State of Uttaranchal and Anr. Vs. Sri Shiv Charan Singh Bhandari & Ors. [(2013) 12 SCC 170], in it was held that the Courts’ direction to consider the representation without examining the merits, nor an order passed in compliance with such direction, will extend the limitation, or erase the delay and laches and it is not a fresh cause of action.

6. At the time of hearing, learned counsel for the applicant relied upon the judgment passed by Hon’ble High Court of Orissa in OJC No.2411/2001 (A/13) in which case of a similarly situated person as that of applicant was considered and the respondents were directed to consider the case of the petitioner therein under the scheme for land losers. The said judgment

dated 3.3.2009 was challenged by the Railways before Hon'ble Supreme Court and vide the judgment and order dated 25.1.2010, the order dated 3.3.2009 of Hon'ble High Court in O.J.C.No.2411/2001 was upheld.

7. A perusal of Paragraph-2 of the judgment of the Hon'ble High Court shows that the name of the son of the petitioner had been recommended by the Special Land Acquisition Officer (Railway), Koraput vide his letter dated 4.10.1991 for providing employment and in spite of that the railways had not taken any action. Further, no objection on the question of delay was raised by the respondents or it was considered by Hon'ble High Court as revealed from the judgment dated 3.3.2009 of the Hon'ble High Court(A/13). Hence, we are of the considered view that the circumstances of the case in OJC No.2241/01 are different from the present O.A. before us, in which although the applicant became a major in the year 2004, he applied for employment benefit in the year 2011. There is nothing on record that the Special Land Acquisition Officer had recommended his case or of any one from his family to the respondents for providing appointment under the scheme.

8. In view of the above, the judgment in O.J.C.No.2411/2001 will not be applicable to the present O.A. Further, the grounds mentioned in M.A.No.418/2018 for condoning delay are not at all satisfactory for which

we are not inclined to condone the delay. Accordingly, the M.A.No. 418/2018 is dismissed.

9. Since the application for condonation of delay is dismissed, we hold that the O.A. filed by the applicant is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985 and therefore, the same being not maintainable, is dismissed. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

BKS

