

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/645/2014

Date of Reserve: 05.07.2019

Date of Order:26.08.2019

CORAM:

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

Ajaya Kumar Patra, aged about 38 years, S/o. Gobardhan Patra, residing at At/PO-Bhimpur, Via-Rasalpur, Dist-Balasore.

...Applicant

By the Advocate(s)-M/s.S.Swainn
B.K.Barik

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Defence, Sena Bhawan, New Delhi.
2. Director, Integrated Test Range (I.T.R.), At/PO-Chandipur, Dist-Balasore, Odisha-756 025.
3. Collector, Balasore,At/PO/Dist-Balasore.

...Respondents

By the Advocate(s)-Mr.S.Behera
MR.J.Pal

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant claims to be a land oustee, whose land has been acquired way back in the year 1994 for the expansion Interim Test Range (in short I.T.R.), Chandipur. His grievance raised in his representation dated 4.3.2013 seeking an appointment against a suitable post as a land oustee having not been considered by the Director, ITR, Chandipur (Respondent No.2), the applicant had earlier approached this Tribunal in O.A.No.260/00225/2014. This Tribunal disposed of the said O.A. vide order dated 15.04.2014 in the following terms:

- "4. Be that as it may, since it is the positive case of the applicant that no decision has been communicated to him on his

representation dated 04.03.2013, without entering into the merit of this matter, this OA is disposed of at this admission stage with direction to Respondent No.2 to consider and dispose of the representation stated to be preferred by the applicant on 04.03.2013 taking into account Annexure-10, copy of the Joint Grievance Cell of Collector and S.P., Balasore, and communicate the decision thereon in a well-reasoned order to the applicant within a period of 60 (sixty) days from the date of receipt of copy of this order. However, we make it clear that if in the meantime said representation has already been disposed of, then the result thereof be communicated to the applicant within a period of two weeks from the date of receipt of copy of this order. There shall be no order as to costs”.

2. Complying with the above direction of this Tribunal, the Director, ITR, Chandipur (Respondent No.2) has passed a reasoned order dated 04.07.2014 (A/12), the relevant Paragraphs of which are quoted hereunder.

- “4. Whereas, it is intimated that the application of Sri Ajaya Kumar Patra, the present applicant, has been examined previously and on examination it is found that the monetary compensation were allowed to applicant’s father against acquisition of 0.51 dec. Of land, that ITR had acquired for expansion. However, no commitment was ever made by ITR authority to provide employment to the land looser person as the institutional obligations and its limitations are well known. It is also worthwhile to mention here that no civil authority ever prevailed upon ITR authority for any appointment to the land looser. Monetary compensations are only paid against land acquisition.
5. Whereas, the application of Shri Ajaya Kumar Patra has been placed before the authority with reference to the existing DRDO recruitment rules as per his grievance. However, the existing rules neither authorises ITR authority to go in for any direct employment on casual basis nor allow recruiting any casual helper working under contractor in a regular post. Presently, DRDO recruits non-gazetted personnel through CEPTAM (CENTRE FOR PERSONNEL TALENT MANAGEMENT), New Delhi to meet the requirement of various Labs.
6. Whereas, it is reiterated that as per the records held and available in this office, no assurance had been given by the ITR authority to provide employment to the legal heirs of the land looser at anytime, as claimed by the Sri Ajaya Kumar Patra in his application without any supporting documents. And further no authority in ITR is ever

competent to promise any regular/casual employment as claimed by the individual in his application.

7. Whereas, the personnel engaged by the contractor are not under the purview of ITR, it is between the contractor and the concerned personnel. But as principal employer, this department only ensures that all the provisions of the Contract Labour Act are adhered to by the contractor time to time.
8. Whereas, the allegation made by the applicant about abusing & disliking of his caste/creed by some individuals is made only with the intention to vitiate the atmosphere at the cost of reputation of ITR. There is a designated officer at ITR, who looks after the various issues relating to SC/ST employees and on enquiry it is understood that no such issues was ever brought to the notice byt he individual. All the allegations made by the individual in this regard are baseless and far from true. The compensation as required to be paid under the then applicable law is paid long back. There was no provision to provide employment to land losers as per the then applicable Rules. The applicant should have been ascertained the factual position before initiation for all such cases by the Collector Grievance Cell.
09. In view of the above facts, the representation dt. 04.03.2013 of the applicant stands rejected. The appointment of present applicant Sri Ajaya Kumar Patra cannot be acceded to, being no rule to provide employment for land losers prevailing at that time. However, the applicant may prefer application for appointment, if any advertisement is made by this department and his case will be considered along with others as per recruitment rules & process.
10. Accordingly, the representation dated 04.03.2013 under Annexure-9 taking into account Annexure-10 of present O.A., is hereby rejected and disposed of accordingly".

3. Aggrieved with the above decision, the applicant has filed this O.A. praying for the following reliefs:

- i) To quash order dated 05.07.2014 under Annexure-12 passed by the Director, ITR, Chandipur, Balasore-Respondent No.2 as wrong and illegal.
- ii) To direct the Respondents more particularly, the Director, I.T.R., At/PO-Chandipur, Dist-Balasore, respondent No.2 to appoint the applicant in any post commensurating to his qualification within a stipulated period as fixed by the Hon'ble Tribunal.

- iii) And pass such other order(s) that will be deem fit and proper in the facts and circumstances of the case.

4. The grounds on which the applicant has based his claim are that he is a land loser since his lands have been acquired for the purpose of expansion of ITR, Chandipur. As per the Government Policy/Rules and/or prevailing practice, since similarly situated persons have got the employment, the applicant is quite eligible for an appointment under the Respondent-Organization as per his qualification. According to applicant, similarly situated persons having been engaged under the Respondent No.2, rejection of his request amounts to discrimination being violative of Articles 14 & 16 of the Constitution of India.

5. Resisting the claim of the applicant, the respondent Nos.1 & 2 have filed their counter. Since the grounds of rejection of the representation of the applicant have already been quoted above, there is no need to reiterate the same facts again.

6. On behalf of Respondent No.3, i.e., Collector, Balasore, a memo dated 25.09.2015 in the form of counter-reply to O.A. has been filed in which it has been stated that the whole grievance of the applicant lies with the Respondent No.2 who is competent to decide the matter and Respondent No.3 has no comment to offer.

7. We have heard the learned counsels for the parties and perused the records. Indisputably, land measuring 0.51 dec. has been acquired for the purpose of expansion of I.T.R., Chandipur in the year 1994, against which the applicant's father has been paid compensation. However, the fact remains that there is no agreement or commitment either made by the Respondent Nos.1 & 2 to provide an employment assistance to the land loser nor any scheme in

this regard framed in consultation with the State Government concerned. Applicant's grievance that similarly situated persons have been provided employment assistance under Respondent No.2 is not substantiated by any unimpeachable document. Unless a right accrues , it would be improper for the Tribunal to rush to a conclusion and direct the respondent-authorities to consider the case of the applicant. Apparently, the applicant has not furnished any credible material to show that his right has been infringed by the Respondents and to that extent, the impugned order is bad in law. In the absence of any such documentary evidence establishing right to employment under the Respondent No.2 on the ground of land lower, this Tribunal cannot come to the aid of the applicant. In view of this, the relief sought for by the applicant is not justiciable.

8. For the reasons discussed above, the O.A. being devoid of merit is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS

(GOKUL CHANDRA PATI)
MEMBER(A)

