
(2014) 01 PAT CK 0059
In the Patna High Court
Case No : CWJC No. 234 of 2014

Chini Thakur

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 17-01-2014

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14
Constitution of India, 1950 — Article 226

Citation : (2014) 3 PLJR 724

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Ajatshatru, Ashok Kumar Keshari, Advocate for the Appellant;
Kamlesh Kr. Sharma, Advocate for the Respondent

Judgement

Chakradhari Sharan Singh, J.—Heard learned counsel for the petitioners, learned counsel appearing on behalf of the Union of India and learned counsel for the State. The petitioners are aggrieved by non-implementation of the policy of the respondent/Union of India, Department of Railways as contained in letter bearing No. ECR/CAO/W/Land Employment/143/277 dated 9/18.1.2007 which contains, inter alia, that the members of the families displaced on account of acquisition of land on the southern bank of river Ganga Rail Bridge Project, Patna shall be provided with an employment. The scheme is meant for such members of the families whose minimum 50% of land or 0.2 Acre whichever is less has been acquired or whose residential accommodation is acquired.

2. From paragraph 1 of the writ application itself, it will appear that the petitioners seek direction to appoint them under the Department of Railways, Government of India for which remedy is available to him. Petitioners' case is covered by Section 14 of the Administrative Tribunals Act, 1985. Sub-section (1) of Clause (a) reads thus:--

"14. Jurisdiction, power and authority of the Central Administrative Tribunal.--.....

(a) recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;"

3. It also appears that for similar relief petitioners had earlier approached the Central Administrative Tribunal by filing O.A. No. 69 of 2012 which came to be disposed of by an order dated 30.1.2012. In such circumstance, in my opinion, this writ application under Article 226 of the Constitution of India is not maintainable.

4. The petitioners have placed reliance upon a judgment of the Supreme Court reported in *Hy Lay Poultry Farms Vs. State of Haryana*, to contend that the writ petition is maintainable as some other writ applications seeking similar reliefs are pending in this Court. I do not agree with the submission as in that case, alternative remedy was available to the writ petitioners but because of pendency of the reference case in the High Court for the same assessment year, in the peculiar facts and circumstances of the case, the Supreme Court held that the writ petition could have been admitted. The facts of those cases are entirely different and not applicable in the facts and circumstances of the present case. The another judgment of the Supreme Court relied upon by the learned counsel for the petitioners in support of his submission that this application is maintainable, reported in *The British India Steam Navigation Co. Ltd. Vs. Jasjit Singh, Addl. Collector of Customs, Calcutta and Others*, is also not applicable in the facts and circumstances of the cases.

5. The Courts have consistently held that if the matter is covered by the provisions of the Administrative Tribunals Act, 1985, this Court should not exercise its jurisdiction under Article 226 of the Constitution of India at the first instance.

6. This writ application is, accordingly, dismissed. The petitioners will have a liberty to approach the Administrative Tribunal, Patna for redressal of his grievance. If any question of limitation arises before the Tribunal, it would be open to the petitioners to take a plea that they were pursuing their remedy before this Court, for condonation of delay, if any.