
(2009) 03 OHC CK 0052
In the Orissa High Court

Nila Dei

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-03-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 4(c)

Citation : (2010) 109 CLT 126 : (2009) 1 OLR 891 Supp

Hon'ble Judges : I.M. Quddusi, Acting C.J.; Pradip Mohanty, J

Bench : Division Bench

Final Decision : Allowed

Judgement

I.M. Quddusi, A.C.J.

1. This Writ Petition has been filed against the impugned Order Dated 16.10.2000 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 872 of 1996 directing that in case the Respondents decide to engage casual labourers for Koraput-Rayagada Railway Line, then the applicant's son whose case has been duly recommended should be given preferential treatment more so because out of 200 posts which were to be thrown open to land oustees, 12 posts are yet to be filled up. However, the Tribunal in the impugned order has held that as the Petitioner has not approached the Tribunal for the last ten years, the claim for providing employment to her son is not maintainable as it is not a vested right, which can be enforced at any time in future. In view of this, the Tribunal has held that the application of the Petitioner is without any merit.

2. The brief facts of the case are that the Petitioner belongs Scheduled Tribe & her land to the extent of Ac.9.24 dec. out of total land of Ac.10.34 under Khata No. 114/277 of village Tikiri was acquired by the S.E. Railway for construction of Koraput-Rayagada Railway Line in the year 1986. Besides getting compensation for acquired land, one member of each family whose lands were acquired was entitled to get employment on rehabilitation ground under the guidelines issued by

the Railway. The name of the son of the Petitioner was recommended by the Special Land Acquisition Officer, (Railway), Koraput vide letter No. 922 dated 4.10.1991 for providing employment. As no action was taken, the Petitioner served a legal notice on the Railway authority on 23.8.1995 requesting to take immediate steps in the matter of providing employment to her son. Even then nothing happened &, therefore, the Petitioner was compelled to file the O.A. before the Tribunal which has been dismissed. Hence, this Writ Petition.

3. In the counter affidavit filed on behalf of Opposite Party Nos. 1 & 2, a stand has been taken that there is variation as to the extent of land shown as acquired from the Petitioner. While recommending the name of the brother of the Petitioner, the same was included in the 25% land loser list but in the revised list dated 8.6.1989 it was shown as Ac.5.91, whereas while recommending the name of the son of the Petitioner the extent of land acquired was shown as Ac.9.24 out of total extent of Ac.10.36. The Opposite Parties in their counter affidavit have admitted that neither the name of the brother of the Petitioner nor her son recommended by the State Government authorities have been considered. It has been further stated in the counter affidavit that the State Government submitted nine separate lists consisting of 1411 families of land losers. The name of the son of the Petitioner was recommended only on 4.10.1991. Keeping the rule position & also the Judgment of the Tribunal, the case of the son of the Petitioner was considered & as the work in Koraput-Rayagada Rail Line Project has already been completed the casual labour already engaged in the project has been reduced, the case of the Petitioner's son could not be provided with the job.

4. It appears that notice u/s 4(c) of the Land Acquisition Act was issued to the Petitioner on 19.9.1987 vide Annexure-2. Notice u/s 12(2) was issued to her on 24.3.1988 to appear before the Land Acquisition Collector on 20.4.1988 to receive compensation. From Annexure-6, the letter dated 4.10.1999 of the Special Land Acquisition Officer (Railway), Koraput addressed to the Chief Engineer (Con.), S.E. Railway, Laxmipur, it appears that Ac.9.24 decimals of land belonging to Petitioner was acquired for Koraput-Rayagada Railway Line but by letter dated 8.6.1989 the name of her brother was wrongly recommended for providing employment. When the Petitioner approached the Special Land Acquisition Officer by filing a petition, the mistake was corrected & the name of her son was recommended. As the Railway authorities did not take any action, the Petitioner served legal notice & after obtaining the certificate from the Land Acquisition Officer approached the Tribunal in 1996. In view of the aforesaid, the Tribunal was not right in holding that as the Petitioner has not approached the Tribunal for the last 10 years, her claim for providing employment to her son was not maintainable.

5. Now it is necessary to see whether according to the guidelines of the Railway Board, the employment on rehabilitation is only given for the purpose of the work done on the acquired land or may also be some other place. In this regard, the Petitioner has filed a copy of the letter of the Railway Board dated

31.12.1982/1.1.1983 with the subject "Appointment to Group "C" & "D" posts on the Railways of members of families displaced as a result of acquisition of land for establishment of Projects." In paragraph-2 thereof, it has been provided that the Zonal Railways & Production Units & also project authorities may consider applications received from persons displaced on account of large-scale acquisition of land for projects on the Railways for employment of the displaced person, or his son/daughter or wife for employment in Group "C" or Group IV posts in their organization including engagement as casual labour & give them preferential treatment for such employment, subject to the following conditions:

1. The individual concerned should have been displaced himself or he should be the son/daughter/Ward/wife of a person displaced from land on account of acquisition of the land by the Railways for the Project;
2. Only one job on such preferential treatment should be offered to one family;
3. This dispensation should be limited to recruitments made from outside is direct recruitment categories & to the first recruitment of within a period of two years after the acquisition of land, whichever is later;
4. It must also be ensured that the displaced persons did not derive any benefit through the State Government in the form of alternative cultivable land etc; &
5. The person concerned should fulfil the qualifications for the post in question. & also be found suitable by the appropriate recruitment Committees, in the case of the Group "C" posts for which recruitment is made through the Railway Service Commission, the Chairman or the Member of the Railway Service Commission should be associated in the recruitment.
- 5.(sic) In view of the above, it cannot be said that the employment to a displaced person or any member of his family is confined only to the work which is to be done on the acquired land but it is liable to be provided anywhere within the zone &, therefore, we are of the opinion that one of the family members of the Petitioner is entitled to get employment; more so when in the counter affidavit the Opposite Parties themselves conceded that they have provided employment to 188 persons of the displaced families then why the Petitioner should be discriminated.
6. Therefore, we allow this Writ Petition & quash the impugned judgment/order of the Central Administrative Tribunal & direct the Opposite Parties to provide suitable employment to one of the family members of the Petitioner in accordance with the guidelines of the Railway Board in that regard.

No order as to cost.

Pradip Mohanty, J.

I agree.