

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25313 of 2013

=====

Amil Kumar Son Of Late Lalan Pandey Resident Of Village- Harpur, P.O.-
Nagraon, P.S.- Charpokhri, District- Bhojpur

.... Petitioner/s

Versus

1. The Union of India through the General Maanger, Presently East Central Railways, Vaishali at Hajipur, Bihar
2. The General Manager, Personnel, E.C. Railway, Hajipur
3. The Chief Personnel Officer, Railways, Hajipur
4. The State Of Bihar through the Collector, Bhojpur at Ara

.... Respondent/s

=====

Appearance :

For the Petitioner/s :	Mr. SUNIL KUMAR ALIAS SHARMA
For the State	Mr. Subhash Chandra Mishra, SC 16
For the Railways	Mr. Anil Singh

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 31-08-2016

Heard the counsel for the petitioner, the State and the Railways.

The petitioner is the son of Late Lalan Pandey. He claims himself as one who lost his entire livelihood including the land owing to acquisition thereof by the respondent-Railway for construction of Arrah-Sasaram New Railway Line Project. Such acquisitions were made a decade ago. In 2012, the petitioner filed a writ petition in this Court vide CWJC No. 4493 of 2012. A Bench of this Court vide order dated 11.12.2012 (Annexure-1) permitted the petitioner to ventilate his grievance before the General Manager, East Central Railway, who was directed to examine/consider the same and decide his claim in accordance with law. The representation of the petitioner made in the light of the said order was considered/examined and rejected by the said authority which is under challenge. Paragraph 3 of the order passed on the

representation/grievance of the petitioner reads as under:-

- “3. (i) As per Annexure-1 (Railway Board Circular No. E(NG)II/2002/RC-5/4 dated 19.04.06 “...no cognizance by way of offering employment to displaced persons should be given wherein only a strip of land for construction of a line has been acquired.
- (ii) In the impugned case a small piece of land measuring 0.06 acre only was acquired in the year 2006 vide Annexure-2(case no.01/2005-06). As such this does not conform to the requirement of above mentioned Board’s circular to entitle the applicant for job in railway.
- (iii) Moreover, at the material time there was no specific dispensation from Railway Board to provide job in lieu of acquisition of land for ARA-SASARAM project.
- (iv) The letter of Executive Engineer/Construction No. XEN/C Ara/AS-6 dated 08.08.2008 cited as Annexure-4 is a routine forwarding letter for consideration of the claim for job in railway. It did not contain any express commitment from administration to provide job to the claimant.”

It has been submitted by the petitioner relying on a recommendation made by the Executive Engineer/Construction that on a physical verification made in this regard it was found that majority of the land(s) including the building of the petitioner was acquired and, as such, he can be treated as a displaced person. The respondent has not considered the said aspect of the matter.

Mr. Anil Singh appearing for the respondent-Railways has, however, submitted referring to the finding(s) in the impugned order that there was no dispensation from the Railway Board to provide employment in appropriate category in case there is complete

displacement of the family owing to such acquisition(s). In this connection, he has also relied on a communication of the Railway Board dated 19.04.2006 (Annexure-5).

Any such claim for employment besides payment of fair compensation shall be as an exception. The respondents in such matter are required to strictly adhere to the policy they have framed. In the case at hand it does not appear that in all eventualities the employment was assured. This Court had an occasion to deal with such claim of the land losers in CWJC No. 18750 of 2012 wherein it has been held that any such benefit/privilege to grant employment has to be considered strictly in accordance with the policy decision of the government. It is an exception to the rule. The Court noticed the ratio enunciated by Hon'ble Supreme Court in **U. K. Nagpal vs. State of Haryana & Ors. (1994 (4) SCC 138)**.

The counsel for the petitioner, however, relied on another decision of the respondent-railway issued on 16.07.2010 (Annexure-8) as well as the communication dated 28.09.2010 (Annexure-9) in order to submit that the respondent--Railway has offered such employment besides payment of fair compensation in case of one member of such family of land losers.

Per contra, Mr. Singh has drawn attention of the Court to Clause 8 and 9 wherefrom it appears that the aforesaid policy decision(s) (Annexure-8 and 9) was/were made prospective. The respondent clearly instructed that in the previous cases the contemplation of the policy decision cannot be extended. In the case at hand, the acquisitions were made prior to 2006 inasmuch as the fair compensation was made in March 2006.

Considering the facts and circumstances of the case, in my view, it shall be inappropriate on the part of the Writ Court to grant the relief(s) as Annexure-8 & 9 would not be applicable to the present case.

The writ application is dismissed.

(Kishore Kumar Mandal, J)

HR/-

U			
---	--	--	--