

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.863 of 2017

Brijnandan Mahto, Son of Late Dukhan Mahto, R/o Jalalpur, P.O.- Dhanaut,
P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Department of Railway, Railway Bhawan, New Delhi.
2. Secretary, Department of Railway, Rail Bhawan, New Delhi.
3. The Union of India through the General Manager, East Central Railway, Ministry of Railway, Vaishali at Hajipur.
4. The D.R.M. East Central Railway, Ministry of Railway, Danapur, Patna.
5. The Chief Engineer, Construction, Ganga Bridge, East Central Railway, Digha Ghat, Patna.
6. The Dy. Chief Engineer, Construction, East Central Railway, Digha Ghat, Patna.
7. The State of Bihar through the Secretary and Commissioner Revenue & Land Reforms Department, Govt. of Bihar, Patna.
8. The District Magistrate, cum Collector, Patna.
9. The District Land Acquisition Officer, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Alok, Adv.
For the Railways	:	Mr. Mithilesh Kr. Rai, Adv.
For the Respondent/s	:	Mr. RISHI RAJ SINHA- SC19
		Mr. Saurav Kumar, A.C.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 23-01-2018 Heard learned Counsels for the petitioner, the Railways
and the respondent State.

The present Writ application has been filed for a direction



to the respondent-authorities to implement the policy of Railways for providing employment to one member of the family who has been displaced due to acquisition of his land/house for the purposes of constructing railway bridge over the river Ganga in the District of Patna and Saran. Further prayer has been made for a direction to the respondent no. 8, the District Magistrate-cum-Collector, Patna, to forward the application of the petitioner, as contained in Annexure-5, to the competent authority of Railways for appointment.

It has been submitted by learned Counsel for the petitioner that the persons whose lands were acquired from the northern side of the Railway bridge were provided employment, but the persons residing at the southern side were not provided employment and this issue was raised before this Court in CWJC No. 8283 of 2005, which was disposed of vide order dated 27.09.2012, as contained in Annexure-7, in following terms:-

“Acquisition of land is for construction of the road cum railway bridge. Land on both the ends of the bridge falling in the two geographical regions or area was acquired. Obviously, there are displaced persons who have lost their valuable right over their land on which they survived on both the ends of the bridge. There is no reason



why land lost by persons at Sonapur should be treated in a different category than the ones whose land fell within the territorial jurisdiction of Patna. The rationale given behind the policy decision of the Railway Board is of no avail to the respondents for the simple reason that the Court has already observed earlier that two like persons cannot be treated deferentially and therefore, those petitioners also, who have not been given job under the Railways, are required to be given job for the loss of their land. Rejection of their claim by the respondents on the rationale given by them that their land had already been acquired in the year 2003 cannot form a class by themselves as project is still going on and nowhere near completion. Merely because they are in not in a position to create nuisance it does not mean that they have lost their right to be treated alike.

Writ application is disposed of with a direction upon the Chairman, Railway Board, to ensure that employment is offered to those petitioners, who have not yet been given employment, even if their lands falls within the territorial jurisdiction of Patna District. There shall be no discrimination in this regard or else the Court will be compelled to take a serious view of the matter because Railways will not be permitted to innovate or improvise in the manner in which Article 14 is going to be applied to the



citizens of the country.

It is clarified that the employment will have to be granted on the same yardstick as has been applied with regard to those persons who have been given the benefit of employment on Sonepur end.”

Similar view was expressed by a Bench of this Court vide order dated 22.01.2015, passed in CWJC No. 10899 of 2013.

Learned Counsel for the petitioner further drew the attention of this Court to the order dated 09.02.2017, passed in CWJC No. 16760 of 2016 (Ravindra Nath Singh Vs. Union of Indian and Ors.) whereby a Bench of this Court directed the authorities of the Railways to consider the case of appointment of the petitioner of the said case since the Collector-cum-District Magistrate had recommended his case. The relevant portion of the order reads as:-

“Learned Counsel for the State submitted that the Collector-cum-District Magistrate, Patna (respondent no.8) would finally decide the representation filed by the petitioner expeditiously and accordingly transmit his recommendation to the Railways.

In view of the aforesaid, the writ petition stands disposed off with a direction to the respondent no.8 to take a final decision with



regard to the representation of the petitioner for providing employment, either to himself or to his son, under the policy of the Railways. To facilitate the matter, the petitioner shall make a fresh representation to the respondent no.8 within two weeks from today, along with a copy of this order, whereupon the respondent no.8 shall make his proper comments/recommendations and forward the same to the respondent no.4 within six weeks thereafter. The respondent no.4 shall then take a decision, either himself or shall place the matter before the Competent Authority for taking a final decision. The same shall be done within two months from the date of receipt of the report from the respondent no.8.”

Learned Counsel for respondent no.8, the District Magistrate-cum-Collector, Patna submits that though the representation of the petitioner has not been disposed of till date, but the petitioner's name will be recommended within a period of four weeks from the date of production/receipt of a copy of this order.

Though a counter affidavit has been filed on behalf of respondent nos. 1 to 6, but Interlocutory Application No. 8751 of 2017 has been filed on behalf of respondent nos. 1 and 2 being, the Secretary, Department of Railways for expunging



their names from the array of the respondents.

Since, learned Counsel for the petitioner does not have any objection to such prayer, hence, he is permitted to delete the name of respondent nos. 1 and 2 from the array of the respondents.

Learned Counsel for the petitioner is permitted to make necessary correction.

Accordingly, Interlocutory Application No. 8751 of 2017 is allowed.

Though it has been canvassed by Railways, through counter affidavit that the petitioner has no vested right to get employment in lieu of land acquired for the purposes of constructing bridge over the river Ganga. However, it is submitted by learned Counsel for the Railways that if any application is forwarded by the respondent no.8, the District Magistrate-cum-Collector, Patna, the same will be considered in accordance with law.

There is nothing on record to suggest that the order passed by a Bench of this Court with regard to similarly situated persons as quoted above has been challenged by the Railway or it has not been stated that such similarly situated persons have not been appointed under the policy of the Railways.



In the circumstances, the petitioner would be at liberty to submit a copy of his representation, as contained in Annexure-5, before the respondent no.8, the District Magistrate-cum-Collector, Patna within a period of one week from the date of production/receipt of a copy of this order. The District Magistrate, Patna, respondent no.8 is expected to take final decision on the representation of the petitioner within a period of four weeks of submission of the representation and it is expected from the Railway authorities to decide the issue of the petitioner within eight weeks thereafter in the light of the decision taken with regard to similarly situated persons.

Accordingly, the Writ application is disposed of.

(Dinesh Kumar Singh, J)

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