

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19371 of 2015

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1. Nityanand Singh, son of late Parmanand Singh, R/o village- Jalalpur, P/s Rupaspur, Danapur, District Patna.
 2. Harendra Singh, son of late Ram Pyare Singh, R/o village- Jalalpur, P/s Rupaspur, Danapur, District Patna.

... .. Petitioners

Versus

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

... .. Respondents

Appearance :

For the Petitioners	:	Mr.Santosh Kumar Singh, Advocate
For the Respondents	:	Mr.Ashok Kumar Keshri, Sr. Rly.Advocate
		Mr. Brajesh Kumar, Railway Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
C.A.V. JUDGMENT

Date : 08-02-2019

Heard both sides.

2. The petitioners by filing this writ petition seek direction commanding the respondent authorities to implement the policy of Railway Department issued vide Letter No.ECR/CAO/W/Land Employment/143/227 dated 09.08.2007



(Annexure 3) whereunder it has been resolved that one person of the family shall be provided appointment in service who has been displaced and whose land and house have been acquired on the southern side for construction of Ganga Rail Bridge Project.

3. Learned counsel for the petitioners submits that the land of petitioner no.1 Nityanand Singh was acquired vide L.A. Case No.02/2002-03, 18/2005-06 and final payment was made. The land and house of petitioner no.2 Harendra Singh was also acquired vide different L.A. Case numbers. The land acquisition proceeding was also initiated from the northern side of river Ganga for construction of Rail Bridge. The Principal Chief Engineer, East Central Railway sought instruction from Advisor, Staff and Land Management, Railway Board with regard to policy decision of 1983 for providing appointment to one member of the family displaced due to land acquisition. In response thereto, the Railway Board has resolved to provide appointment to displaced person which has been communicated to G.M., East Central Railway, Hajipur vide letter D.O. No.E(NG) II/2002/RC-5/4 dated 27.01.2006.

4. In view of the aforesaid policy decision of Railway Board, the respondent authorities provided jobs to different persons on the basis of details forwarded by D.M., Patna in



prescribed format. The petitioners filed petition on 26.09.2011 before the D.M., Patna stating therein that they have fulfilled all criteria for appointment but the D.M., Patna did not forward their applications. The petitioners also approached the respondent authorities but no step was taken to provide appointment to the petitioners. Many aggrieved persons moved before this Court in C.W.J.C. No.8283 of 2005 and in C.W.J.C. No.10899 of 2013 (Annexure 7 series) and they have been provided appointment. It is further submitted that a Division Bench of this court in L.P.A. No.1981 of 2015 relying on the decision of the Hon'ble Apex Court rendered in the case of State of Uttar Pradesh and others vs. Arvind Kumar Srivastava and others reported in (2015) 1 Supreme Court Cases 347 directed the respondents to consider the case of such persons, whose lands have been acquired for construction of Rail Bridge, for appointment as many such persons were provided appointment.

5. It is further submitted that although respondent authorities have raised preliminary objection about maintainability of the writ in view of the provisions as contained in section 14 of the Central Administrative Tribunal Act, 1985, since many aggrieved persons moved directly to this court for appointment in view of acquisition of their lands in C.W.J.C.



No.8283 of 2005 and C.W.J.C. No.10899 of 2013, this writ petition cannot be dismissed on the ground of alternative remedy.

6. On the other hand, learned senior counsel for the railways, submits that the petitioners have already received compensation for acquisition of their lands under the provision of Land Acquisition Act. The petitioners did not file any petition for appointment in the year 2005 when they received compensation for the acquisition of land. After more than 10 years, the petitioners filed this writ petition, therefore, this writ petition is liable to be dismissed on the ground of laches and delay. It is further submitted that in view of section 14 of the Central Administrative Tribunal Act the remedy for the petitioners lies before the Central Administrative Tribunal, as such this writ petition is not maintainable. It is further submitted that in the Division Bench judgement on which the petitioners placed their reliance, the question of jurisdiction of writ court in view of provision of section 14 of the Central Administrative Tribunal Act was not raised and thus a direction was given. The question of laches was also not raised in the aforesaid case but when the question of maintainability of the writ petition is raised before a Single Bench of this court in C.W.J.C. No.234 of



2014, the court by its order dated 17.01.2014 dismissed the writ petition with liberty to the petitioners to approach Central Administrative Tribunal for redressal of their grievance. It is further submitted that in C.W.J.C. No.8283 of 2005 the question was that the relief granted to similarly situated persons can be denied to the other similarly situated persons and the land of the petitioner was situated at the southern side of river Ganga and not at the northern side and on that ground this Hon'ble Court held that similar treatment should be given to the persons residing in either side of river Ganga. The aforesaid judgement cannot apply in the present case as no preliminary objection with regard to jurisdiction of the High Court in view of section 14 of the Central Administrative Tribunal Act was raised. In another case decided by the same Bench of this court being C.W.J.C. No.10234 of 2016 (Naveen Kumar Singh vs. The Railway Recruitment Board & Ors.), the preliminary objection about the maintainability of the writ petition was raised and the same Bench dismissed the writ petition on 01.09.2016 (Annexure B) and, therefore, this writ petition is liable to be dismissed.

7. It is further submitted that a Single Bench in C.W.J.C. No.23015 of 2011 (Surya Bhushan Kumar vs. The



Union of India & others) has held that the land holder whose land has been acquired and the compensation has been paid to him is not entitled for any job from Railways. The aforesaid judgement was affirmed by a Division Bench of this court in L.P.A. No.399 of 2012 by order dated 18.06.2014.

8. Having considered the submissions of both sides, the first and foremost question arises for consideration about the preliminary objection raised by the learned counsel for the respondents regarding maintainability of the writ petition. From perusal of para 1 of the writ petition, it appears that the petitioners seek relief for a direction to the respondent authorities to appoint them under the Department of Railways, Government of India.

9. On bare perusal of sub-section (1)(a)(b) and (c) of Section 14 of the Central Administrative Tribunal Act, it appears that the jurisdiction of all courts except Supreme Court has been conferred on the Central Administrative Tribunal in the matter of appointment and service conditions for the employees of central services.

10. Having considered the settled principle of laws aforesaid, I find that this writ petition is not maintainable. Accordingly, the same is dismissed with liberty to the



petitioners to approach, if they so desire, to the Central Administrative Tribunal, Patna for redressal of their grievance.

(Prabhat Kumar Jha, J)

Harish/-

AFR/NAFR	NAFR
CAV DATE	21.08.2018
Uploading Date	08.02.2019
Transmission Date	

