

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21778 of 2019

1. Smt. Sumitra Devi W/o Sajindra Roy, Village- Gangatola, P.O. and P.s.- Sonpur, Distt.- Saran
2. Vikram Singh, S/o Late Sukhdeo Singh, Resident of Village- Mirjapur, Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
3. Ashok Kumar Singh, S/o Late Bindeshwari Prasad Singh, Resident of Village- Mirjapur, Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
4. Amresh Singh, S/o Late Jainarain Singh, Resident of Village- Mirjapur, Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
5. Awadhesh Kumar Singh, S/o Late Purushottam Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
6. Shailendra Prasad Singh, S/o Late Ramdeo Singh, Resident of Village- Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
7. Kumud Raj Singh @ Guddu, S/o Ravi Shankar Singh, Resident of Village- Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
8. Nandan Kumar, S/o Arvind Kumar Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
9. Shyama Roy, S/o Late Narain Roy, Resident of Village- Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
10. Niraj Kumar, S/o Kedarnath Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
11. Randeep Kumar, S/o Vijay Krishna Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
12. Pritam Kumar Singh, S/o late Shriniwas Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
13. Sadanand Singh, S/o Late Ram Narain Singh, Resident of Village- Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
14. Ashok Kumar Singh, S/o Late Mangal Prasad Singh, Resident of Village- Mirjapur, Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
15. Arvind Kumar Singh, S/o Late Ramanand Singh, Resident of Village- Mirjapur, Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
16. Ajay Singh, S/o late Saryug Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
17. Rohit Kumar, S/o Arun Kumar Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
18. Seema Kumari, W/o Ranbir Kumar Ravinesh, Resident of Village- Mirjapur, Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
19. Yamuna Singh, S/o Late Ramchandra Singh, Resident of Village- Near Gangajal High School, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran



20. Devendra Prasad Singh, S/o late Ram Kripal Singh, Resident of Village- Near Gangajal, Kharika, P.O.- Kharika, P.s.- Sonpur, Distt.- Saran
21. Sanjay Kumar Singh, S/o late Baleshwar Singh, Resident of Village- Near Gangajal, Kharika, P.O.- Kharika, P.s.- Sonpur, Distt.- Saran
22. Laxmi Devi, W/o Balmukund Singh, Resident of Village- Near Gangajal, Kharika, P.O.- Kharika, P.s.- Sonpur, Distt.- Saran
23. Arvind Kumar Singh, S/o Shambhu Sharan Singh, Resident of Village- Near Gangajal High School (Chausinya), P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
24. Shivjee Singh, S/o Late Raghuvansh Singh, Resident of Village- Near Gangajal, Kharika, P.O.- Kharika, P.s.- Sonpur, Distt.- Saran
25. Ravindra Singh, S/o Ram Nepal Singh, Resident of Village- Near Gangajal, Kharika, P.O.- Kharika, P.s.- Sonpur, Distt.- Saran
26. Arun Kumar Singh, S/o late Om Narain Singh, Resident of Village- Near Gangajal High School, P.O. and P.s.- Sonpur, Distt.- Saran
27. Raju Kumar, S/o late Bindeshwari Prasad, Resident of Village- Gangajal Tola, P.O. and P.s.- Sonpur, Distt.- Saran
28. Shyam Sundar Devi, W/o Late Ganga Sagar Singh, Resident of Village- Near Gangajal High School, P.O.- Govindchak, P.s.- Sonpur, Distt.- Saran
29. Sunil Kumar Upadhyaya, S/o Ramji Upadhyay, Resident of Gangajal Sultanpur, P.O.- Govindchak, P.s.- Sonpur, Distt.- Saran
30. Kiran Devi, W/o Ranjit Singh, Resident of Village- Mirjapur, Gangajal, P.O. and P.s.- Sonpur, Distt.- Saran
31. Omkar Narain Singh, S/o Late Ramchandra Singh, Resident of Village- Near Gangajal High School, P.O. and P.s.- Sonpur, Distt.- Saran
32. Tarkeshwar Singh, S/o Late Rameshwar Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
33. Ravindra Singh, S/o late Saryug Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
34. Bhikhari Singh, S/o Late Singasan Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran
35. Ramnath Roy, S/o Late Mahangu Roy, Resident of Village- Bharpura, P.O. and P.s.- Sonpur, District- Saran
36. Harendra Singh, S/o Late Dayanand Singh, Resident of Village- Gangajal, Kharika, P.O.- Kharika, P.s.- Sonpur, District- Saran
37. Panchanand Singh, S/o Ram Prasad Singh, Resident of Village- Mirjapur, Gangajal, P.O.- Bharpura, P.s.- Sonpur, Distt.- Saran
38. Ram Dayal Roy, S/o Late Mahangu Roy, Resident of Village- Bharpura, P.O. and P.s.- Sonpur, District- Saran
39. Sheela Devi, D/o Late Satya Narain Singh, Resident of Village- Gangajal, P.O.-Kharika, P.s.- Sonpur, District- Saran
40. Kishore Kunal, S/o Ghanshyam Singh, Resident of Village and P.O.- Kharika, P.s.- Sonpur, District- Saran



41. Reena Kumari, D/o Vijay Kumar Singh, Resident of Village- Mirjapur, Gangajal, P.o. and P.s.- Sonpur, Distt.- Saran
42. Tarkeshwar singh, S/o Late Deepnarain Singh, Resident of Village- Mirjapur, Gangajal, P.o.- Bharpura, P.s.- Sonpur, Distt.- Saran
43. Chandraket Singh, S/o Late Bindeshwari Singh, Resident of Village- Gangajal, P.o.-Kharika, P.s.- Sonpur, District- Saran
44. Ashok Kumar Singh, S/o Late Kedar Nath Singh, Resident of Village- Gangajal, Barka Bagicha, P.o. and P.s.- Sonpur, District- Saran
45. Brajesh Kumar Singh, S/o Suresh Prasad Singh, Resident of Village and P.o.- Kharika, P.s.- Sonpur, District- Saran
46. Rana Ranjit Kumar, S/o Late Vijay Singh, Resident of Village- Gangajal, Barka Bagicha, P.o. and P.s.- Sonpur, District- Saran
47. Sudha Kumari, D/o Late Jaleshwar Singh, Resident of Village- Gangajal, Barka Bagicha, P.o. and P.s.- Sonpur, District- Saran
48. Pappu Giri, S/o Ramnath Giri, Resident of Village- Gangajal, Barka Bagicha, P.o. and P.s.- Sonpur, District- Saran
49. Umakant Upadhyay, S/o Late Banshropan Upadhyay, Resident of Village- Bharpura, P.o. and P.s.- Sonpur, District- Saran
50. Dharmendra Kumar Singh, S/o Late Vinay Singh, Resident of Village- Gangajal, Barka Bagicha, P.o. and P.s.- Sonpur, District- Saran
51. Rana Ranvijay Kumar, S/o Bashisth Narain Pathak, Resident of Village- Gangajal Tola, P.o. and P.s.- Sonpur, District- Saran
52. Ghanshyam Kumar Singh, S/o Late Ghup Narain Singh Resident of Village- Gangajal, Barka Bagicha, P.o. and P.s.- Sonpur, District- Saran
53. Raghuveer Kumar, S/o Late Paras Nath Singh, Resident of Village- Dudhaila, P.o. and P.s.- Sonpur, District- Saran
54. Guriya Kumari, D/o late Paras Nath Singh, Resident of Village- Dudhaila, P.o. and P.s.- Sonpur, District- Saran
55. Tinki Kumari, D/o late Paras Nath Singh, Resident of Village- Dudhaila, P.o. and P.s.- Sonpur, District- Saran

... .. Petitioners

Versus

1. The Union of India through Chairman Railway Board, New Delhi
2. The General Manager (Personnel), East Central Railway, Hazipur
3. The Divisional Railway Officer, East Central Railway, Hazipur
4. The Chief Personnel Officer, East Central Railway, Hazipur
5. The Senior Personnel Officer, Recruitment, East Central Railway, Hazipur
6. The State of Bihar through the Collector, Saran at Chapra
7. The District Land Acquisition Officer, Saran at Chapra

... .. Respondents



with
Civil Writ Jurisdiction Case No. 21559 of 2019

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1. Bateshwar Nath Singh Son of Late Binda Singh Resident of Village- Mirjapur, Gangajal, Post and P.S. Sonpur, District- Saran.
 2. Sharmila Kumari Wife of Alok Kumar Singh Resident of Village- near Gangajal High School, Post and P.S.- Sonpur, District- Saran.
 3. Birendra Nath Singh Son of Late Ram Lakhan Singh Resident of Village- near Gangajal High School, Post and P.S.- Sonpur, District- Saran.
 4. Santosh Kumar Singh Son of Tarkeshwar Singh Resident of Village and Post- Kharika, P.S.- Sonpur, District- Saran.
 5. Chandrama Singh Son of Shambhu Nath Singh Resident of Village- Gangajal Barka Bagicha, Post and P.S.- Sonpur, District- Saran.

... .. Petitioners

Versus

1. The Union of India through Chairman Railway Board, New Delhi.
2. The General Manager (Personnel), East Central Railway, Hazipur.
3. The Divisional Railway Manager (Personnel), D.R.M. Office, Sonpur.
4. The Chief Personnel Officer, East Central Railway, Hazipur.
5. The Senior Personnel Officer, Recruitment, East Central Railway, Hazipur.
6. The State of Bihar through the Collector, Saran at Chapra.
7. The District Land Acquisition Officer, Saran at Chapra.

... .. Respondents

with
Civil Writ Jurisdiction Case No. 5751 of 2021

-
1. Shashikant Kumar S/o Kailash Rai Resident of Village- Mannan, P.S.- Hajipur (Sadar), District- Vaishali- 844103.
 2. Ravi S/o Pawan Kumar Tiwary Resident of Village- Chakataullah (Bakarpur), P.S.- Hajipur (Sadar), District- Vaishali- 844103.
 3. Mukesh Kumar S/o Late Dipanarain Singh and mother- Sumitra Devi Resident of Village- Sultanpur, P.S.- Audyogik Chhetra (Industrial Area), District- Vaishali- 844101.
 4. Bhaskar Prabhu S/o Bharat Prasad Singh Resident of Village- Ghataro, P.S.- Kartohan, District- Vaishali.

... .. Petitioners

Versus

1. The Union of India Represented through the Secretary, Ministry of Railway, Government of India, New Delhi.
2. The Railway Board Through its Chairman, Ministry of Railway, Govt. of India, New Delhi.



3. The Secretary (Establishment) Railway Board Ministry of Railway, Govt. of India, New Delhi.
4. The Director (Estt.) Railway Board Ministry of Railway, Govt. of India, New Delhi.
5. The General Manager, (P) East Central Railway, Hajipur.
6. The Chief Personnel Officer (Admn.) East Central Railway, Hajipur.
7. The Divisional Railway Manager E.C.R., Sonepur.
8. The State of Bihar Through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
9. The Collector Saran at Chapra.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 21778 of 2019)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Adv.

For the Respondent/s : Ms. Punam Kumari Singh, CGC.

(In Civil Writ Jurisdiction Case No. 21559 of 2019)

For the Petitioner/s : Mr. Bindhyachal Singh, Sr. Adv.

For the Respondent/s : Mr. Anshuman Singh, CGC

(In Civil Writ Jurisdiction Case No. 5751 of 2021)

For the Petitioner/s : Mr. Pratik Kumar Sinha, Adv.

For the Respondent/s : Smt. Kanak Verma, C.G.C.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL JUDGMENT

Date : 06-07-2022

1. All these three writ petitions were heard together as common questions are required to be examined in all the three cases.

2. The brief facts, which require to be noticed for the purpose of adjudication are being taken from all the case files.

3. The petitioners in C.W.J.C. No.5751 of 2021 are resident of district Vaishali, while the petitioners in C.W.J.C. No.21778 of 2019 and C.W.J.C. No.21559 of 2019 are resident



of northern side of Rail-cum-Road Bridge over river Ganga connecting Digha-Patna with Saran district. The lands of the petitioners and their parents were acquired by the State Government for the purpose of the construction of the rail-cum-bridge over river Ganga and commonly known as Ganga bridge. The area of the land acquired is mentioned in the said writ petition and while compensation was granted, the Railways Board vide its letter dated 27.01.2006 communicated its decision providing appointment on Group-C and D posts to at least one member of each family, whose lands were acquired for establishment of the said railway project. Vide circular dated 19.04.2006, the Railway Board directed the General Manager of All India Railway referring to the provisions contained in its earlier letter regarding appointment in the railway to the members of displaced families, as a result of acquisition of land for establishment of projects. It was stated that after due deliberations in the full Board meeting, it was decided that no compensation by way of offering employment to displaced persons should be given wherein only strip of land has been acquired but the same can be considered for appointment in Group-D post, wherein large area, house or substantial livelihood has been taken away/steps in the process. It also



reiterated that cases where recruitment was already in progress or where any commitment has been given to provide employment such recruitment process should be finalized and employment should be provided on Group-D post. On 28.07.2008, the General Manager, Hajipur was directed that the East Central Railway to decide cases of employment of land losers locally as per para-2 of the Board's letter dated 19.04.2006. Vide letter dated 26.04.2011, it was further clarified as under:-

“Criteria in terms of measurement of land has never been laid down in absolute terms for providing employment to those whose land has been acquired for railway projects and the same was required to be dealt with in terms of instructions contained in the letter dated 19.04.2006 and 28.07.2008.”

4. On 27.01.2015, the Railways Board reiterated its view relating to appointment to land loser. However vide order dated 11.11.2019 the Railways Board decided to withdraw its earlier policy of offering appointment in railways to the affected land loser and instead thereto a lump sum payment of Rs. 5 lac was to be granted to families who were primarily dependent on acquired land for livelihood. The circular was issued in light of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.



The policy was made effective from the date of issue of letter i.e. 11.11.2019.

5. The present litigation has arisen on account of the circular dated 11.11.2019 and the denial of the Eastern Railway in granting employment to one of the members of the family of the land looser whose land was acquired in 2006 for the Ganga Bridge Project. The petitioners are such persons, who have been displaced on account of their complete land having been acquired.

6. With regard to the issue several writ petitions were filed before this court earlier. Two writ petitions bearing no. 16932/2011 and 15918/2011 on 26.04.2012, wherein this court has observed that the persons whose land has been acquired completely which may be even less than 20 decimal cannot be debarred for consideration of appointment. It was observed that 61 persons out of 125 persons had already been provided job by the railways authorities. Upon representation made by them, the railways directed to submit certain documents for consideration. The railway further communicated on 22.08.2017 to the Samiti formed by the petitioners that the documents of the land losers was being verified and vide letter dated 11.09.2018, it was informed that 280 persons had been



given appointment while approximately 250 land losers were yet to be granted the said appointment.

7. While in another judgment passed in C.W.J.C. No.7985/2015 decided on 28.01.2020, co-ordinate Bench relegated the petitioners to the respondents with directions that their representations be decided within a period of three months, which resulted in passing of reasoned and speaking order by the Chief Personal Officer, East Central Railway, Hajipur rejecting their claim for appointment vide order dated 13.03.2020.

8. In the rejection letter, the Chief Personal Officer, relied on the policy letter dated 11.11.2019 (Supra), whereby it was noticed that earlier policy of offering appointment had been withdrawn. It also refers to a judgment of Hon'ble Supreme court in *Butu Prasad Kumbhar Vrs. Sail* reported in *1995 supplement (2) SCC 225* and *Umesh Kumar Nagpal Vs. State of Haryana and Ors* reported in *1994 SCC (4)* to reject the claim of the petitioner. The order dated 13.03.2020 is challenged in C.W.J.C. No.5751 of 2021.

9. In the other two writ petitions, persons who were not given any employment had preferred C.W.J.C. 13826/2006, 15717/2011 and 8283/2005, wherein High Court vide order dated 27.09.2012 gave direction to the railways to



follow a consistent policy. It would be appropriate to quote the order passed by the High Court:-

“The State or its limbs has to follow a uniform policy and cannot indulge in pick and choose or mould a policy to suit some and oust some even though they are identically or similarly placed. Prima facie, this Court is of the opinion that the rationale or the reason which emerges from the counter affidavit filed on behalf of the respondent Railways, per say, violates Article 14 of the Constitution of India because two similarly situated persons have been treated differentially.

There is rail road cum railway bridge which is coming up under the supervision and construction of the respondent Indian Railways. This bridge originates from Patna and ends up in Sonapur, in the district of Saran. It is a mammoth bridge for which land had to be acquired at both the ends. Land was acquired and to facilitate smooth acquisition and possession of the land even a policy was taken by the respondent Railways to provide job to one member each of the family whose land was acquired. There were various rounds of consultation and decision-making right up to the Railways Board before the policy was implemented. By a curious interpretation of a policy decided by them, those people whose land fell at Sonapur end were identified and given employment by the Railways but when it came down to some of these petitioners, they have been denied the benefit, which is sought to be explained now by way of counter affidavit by saying that since their lands had already been acquired in the year 2003 and



possession taken, therefore, there may not be an occasion to provide any employment to these persons which, according to them, adds up to a figure of '19'.

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 Railways 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 differentially 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 no where 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, Railways Board, to ensure that employment is offered to those petitioners, who have not yet been given employment, even if their land 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 Sonapur end.”

10. It is stated that in terms of the directions issued by this court, writ petitioners of the said writ petitions were appointed by the Assistant Personal Officer, East Central Railway, Hajipur vide its order dated 28.02.2015 and the communication dated 05.08.2019 is under challenge, whereby it was informed by the Senior Personal Officer that the railway is in the process of reviewing the policy of acquisition of land, and therefore, petitioners' cases were kept in abeyance.

11. Learned counsel for the petitioners submits that the case of the petitioners stands governed by the judgment passed by the High Court earlier (Supra) and the petitioners cannot be discriminated viz-a-viz who have already been appointed under the same acquisition proceeding relating to the Ganga Bridge Project. The petitioners are also members of the families which lost their livelihood and land more than 50



percent and would therefore be governed by the circulars and policy which was invoked at the relevant time when the acquisition was conducted. Merely because of the delay on the part of the respondents in implementing the policy for the petitioners and the action of pick and choose adopted by the respondents in offering employment the remaining land losers namely the petitioners cannot be deprived from consideration for appointment on the basis of the new policy which has come into existence with effect from 11.11.2019. Learned counsel submits that the action of the respondents in putting on hold the appointment process without there being any such direction from the Railways Board is illegal and unjustified. Learned counsel submits that there has been wrongful interpretation taken by the respondents to the letter issued by the railway dated 27.01.2015 and the petitioners were deprived of consideration for appointment.

12. The counsel appearing for the Railways Board has vehemently opposed the claim of the petitioners and submit that there is no existing scheme whereunder the petitioners could claim appointment in lieu of acquisition of land. In view of the present position, it is submitted that the claim on the basis of earlier policy would not survive and decision of the railway



authorities in rejecting the claim does not warrant any interference. Learned counsel relies on the judgment cited by the concerned Chief Personal Officer as noticed above in support of his submission.

13. I have considered the submissions.

14. This court finds that the Railway Board has consistently since 1983 followed a policy of offering an employment to one member of the land losers whose land is acquired for the railway project. The circulars have been issued from time to time by the Railways Board which are applicable to all the different railway organizations Pan India. As regards, the Ganga project and land losers it is apparent that the policy of appointing one member from the family of the land losers was acted upon in as many as 280 persons have already been offered employment. This court has earlier too observed that there can be no discrimination and two like persons cannot be treated differently. Pick and choose method is a anathema to the base principle of equality as enshrined under Article 14 of the Constitution of India. The petitioners and those who have been appointed by the railways are similarly placed and fall in the same category of displaced persons whose land was acquired for project of East Central Railway. Thus, on the anvil of Article 14



the petitioners are entitled for the similar treatment.

15. The policy which has been withdrawn now vide Railways Board circular dated 11.11.2019 specifically mentions the said new circular to be effective from the date of issue of the letter. It refers to RFCTLARR Act 2013, which provides a method of determination of compensation for acquisition of land for the various projects. It thus, takes into consideration the new provisions and therefore the earlier policy invoked of offering employment in lieu of acquisition has been withdrawn. On examining the entire circular dated 11.11.2019 it is apparent that the circular is meant for all the future land acquisition which may be done for the railway projects. Since such land acquisition would be done under the Act of 2013, in other words the circular does not have a retrospective aspect. Hence, the interpretation taken by the Chief Personal Officer, that scheme having now been closed, therefore, the petitioners have no right is erroneous interpretation of circular dated 11.11.2019. This court also notices the letter by which the Director, Establishment, Railways Board to the General Manager, East Central Railway, Hajipur dated 27.01.2015 which reiterates the advise mentioning that till a final decision is taken railway may adhere to the existing instruction. Thus, the respondents could



not have passed an order to put a hold on the appointment process vide communication dated 05.08.2019. In view thereof the petitioners' claim for appointment is found to be admissible in law and as per the extend policy, which was invoked at the time of acquisition of their property.

16. The view taken by this court is also supported by the judgment passed by the Supreme Court reported in ***Anil Kumar Vs. Union of India and Ors reported in (2019) 5 SCC 8591***, it has been held as under:-

“20. For the above reasons, we have come to the conclusion that the rejection of the claim of the Appellant was contrary to the terms of the binding policy circular formulated by the Union of India in the Ministry of Railways. Undoubtedly, the grant of appointment to persons displaced as a result of acquisition is a matter which is within the purview of the policy discretion. No mandamus can lie in the absence of a policy. However, where a policy has been laid down by the Union government as in the present case, the terms of the policy can be enforced. The rejection of the claim of the Appellant was for extraneous reasons and based on irrelevant considerations. Government in the Ministry of Railways formulated a policy. The failure of implementation results in a failure of social justice. The policy circulars were substantive attempts to enhance social welfare. Denial of benefits to the Appellant has led to a long and tortuous road to justice.”



17. The judgment relied upon by learned counsel for the respondents would have no application in the facts of the present case as it is not a case where a decision was taken by the railway not to give appointment to any individual. On the other hand, there was an existing policy which has been implemented for others, no reason is coming forward as to why the petitioners were left out for consideration of appointment. The action of non consideration/denial of appointment is an act of arbitrariness and high handedness on the part of the authorities which deserves to be deprecated. In fact, this court finds that in spite of observation made earlier by this court time and again in writ petition decided as noticed above, the petitioners have been forced to come again for vindication of their rights.

18. In the aforesaid backdrop, the writ petitions are allowed and the respondents are directed to consider the candidature of the petitioners and offer them appointment from the date similarly situated persons were appointed with continuity of service. However, salary shall be fixed notionally and actual salary shall be paid from the date of joining.

19. The exercise shall be completed conclusively within a period of three months.

20. It is made clear that the petitioners would be



free to initiate contempt proceedings without further notice if the compliance is not made within the period as above. Cost made easy.

(Sanjeev Prakash Sharma, J.)

amit/-

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CAV DATE	
Uploading Date	
Transmission Date	

