

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 2926 OF 2006



Between:

T.A.Madhu Kishore, s/o T.John Gabriel, aged about 25 years, R/o
S.V.Nagar, Tirupathi.

...PETITIONER

AND

1. General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. Chief Workshop Manager, Carriage Repair Shop, S.C. Railway,
Tirupathi, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ of mandamus or any other appropriate writ or order or direction declaring that: a) the action of the respondents in not considering the case of the petitioner for employment under land losers scheme as per the notifications issued by the respondents on 12th December, 1997 and also on 24th May, 2001 as arbitrary, illegal and unjust, b) that the proceedings bearing Ref.No.LR/P/648/D.P./Vol./O.A.1547/98 dated 19th December, 2000 of 2nd respondent rejecting the petitioner's case for employment under land losers scheme, as arbitrary, illegal and unjust and issue a consequential direction directing the respondents to consider the case of the petitioner

forthwith for appointment in any suitable vacant post, under 'Land losers scheme'.

I.A. NO: 1 OF 2006(WPMP. NO: 3606 OF 2006)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to issue interim directions directing the respondents to consider the case of the petitioner for employment under 'land losers quota' pending disposal of above writ petition.

**Counsel for the Petitioner: SRI S.S. PRASAD, SENIOR COUNSEL FOR
SRI CHIDAMBARAM SASTRY**

**Counsel for the Respondent Nos.1 & 2: SRI PASALA PONNA RAO,
DEPUTY SOLICITOR GENERAL OF INDIA**

The Court made the following: ORDER



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3470]

MONDAY ,THE NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 2926/2006

Between:

T.a.madhu Kishore, Tirupathi,

...PETITIONER

AND

G M South Central Railway Secbad Another and Others ...RESPONDENT(S)

Counsel for the Petitioner:

1.C SINDHU KUMARI

Counsel for the Respondent(S):

1. Pasala Ponna Rao, DEPUTY SOLICITOR GENERAL OF INDIA

2. GOURI SHANKAR SANGHI

3. K ARUNA

The Court made the following:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 2926/2006

ORDER: (per Ravi Nath Tilhari, J)

Heard Sri S.S.Prasad, learned senior counsel assisted by Sri Chidambaram Sastry, learned counsel appearing for the petitioner virtually and Sri Pasala Ponna Rao, learned Deputy Solicitor General appearing for the respondents.

2. The land of the petitioner's father to an extent of Ac.0.12 cents in Sy.No.867B/1B in Thookivakam village was acquired under Award No.5/83 dated 13.10.1983 for establishment of Railway Carriage Repair Shop, Tirupathi. The respondents had evolved a scheme, under which one member in the family whose land was acquired for the purpose of the Railway Carriage Repair Shop, was to be provided one job. The petitioner's case is that he being qualified, applied for the job, pursuant to the notification in December, 1997. As the same was not being considered, he filed OA.No.1547 of 1998 before the Central Administrative Tribunal, Hyderabad (in short 'CAT'), which was disposed of by an order dated 20.11.1998 with the direction that the petitioner should submit a representation, if so advised to Deputy Chief Mechanical Engineer Carriage Repair Shop, SC-Railway, Tirupati (respondent No.2), with direction to the said respondent No.2 that such representation should be disposed of within the specified period and if the petitioner was aggrieved from the reply of respondent No.2, he would be at liberty to challenge the same.

3. The petitioner's representation was not considered. He filed MA.NO.659 of 2000 in the OA.No.1547 of 1998, which was allowed by CAT on 16.11.2000, directing the respondent No.2 to consider the petitioner's representations dated 12.12.1998 and 13.10.2000 within a period of 45 days.

4. The petitioner's representation was then considered and rejected by an order dated 19.12.2000, on the ground that his case for appointment against the land lost could not be conceded, for the reason of failure on his part to respond to the employment Notification Nos.1/85 and 1/97 issued exclusively for the recruitment of Displaced Persons to Carriage Repair Shop, S.C.Railway, Tirupati.

5. Thereafter, the Chief Personnel Officer issued proceedings vide Ref.No.P.263/Hech/CRS/TPTY/Vol.IV., dated 03.05.2001, on the subject of land losers that it was decided by the competent authority that the applications of eligible persons seeking appointment against land losers quota should be submitted to CWM/TPTYs on or before 31.05.2001 and no further applications will be entertained on any account after that last date. A notification No.TR/P.564/DP/Vol.V dated 24.05.2001, was also issued to that effect. The petitioner again submitted a representation. The list of eligible candidates was issued by respondents, in which, the petitioner's name was placed at Sl.No.14 but inspite thereof the petitioner's case was not being considered.

6. This writ petition under Article 226 of Constitution of India was therefore filed for the following relief:

"to issue writ of mandamus or any other appropriate writ or order or direction declaring that

a) the action of the respondents in not considering the case of the petitioner for employment under land losers scheme as per the notifications issued by the respondents on 12th December 1997 and also on 24th May 2001 as arbitrary illegal and unjust

b) that the proceedings bearing Ref No LR/P/648/DP/Vol/OA1547/98 dated 19th December 2000 of 2nd respondent rejecting the petitioners case for employment under land losers scheme as arbitrary illegal and unjust and issue a consequential direction directing the respondents to consider the case of the petitioner forthwith for appointment in any suitable vacant post under Land losers scheme and pass such other order or orders as this Honble Court may deem fit and proper."

7. Sri S.S.Prasad, learned senior counsel submits that the petitioner had submitted the representation pursuant to the Notification No.1 of 1997, and again pursuant to the direction of the Tribunal in O.A.no.1547 of 1998 vide order dated 20.11.1998. It is incorrect that the petitioner did not respond to the Notification No.1 of 1997. The respondents were bound to consider the petitioner's case, which could not be rejected on the ground that the petitioner did not respond to the Notification No.1 of 1997.

8. Sri S.S.Prasad, learned senior counsel further submits that out of the same list, the persons at Sl.Nos.8, 9 & 21 filed different writ petitions, which were disposed of directing the respondents to consider the case of those petitioners. The respondents considered the cases of those petitioners and had given appointments. He has referred to one such W.P.No.25010 of 2004, disposed of on 19.01.2005, a copy of which is annexed to writ petition and in some cases, after granting age-relaxation.

9. Sri Pasala Ponna Rao, learned counsel for the respondents submits that the petitioner did not submit the representation responding to the Notification No.1 of 1997. Consequently, the rejection of the petitioner's case vide order dated 19.12.2000, is justified. The petitioner could not be eligible for consideration for the employment against the displaced persons quota without responding to the said notification.

10. Sri Pasala Ponna Rao, learned Deputy Solicitor General further submits referring to the stand of respondents in the counter affidavit that the persons at Sl.Nos. 8, 9 and 21 or any person out of list, was not given employment under the land loser quota, except those who had applied pursuant to the Notification No.1 of 1997. With respect to the decision taken by the competent authority and circulated vide notice dated 24.05.2001, he submits that the same was issued only to avoid flow of applications even after the cutoff date of 31.12.1997.

11. We have considered the aforesaid submissions of the learned counsels for the parties and perused the material on record.

12. So far as the submissions with respect to the rejection of the petitioner's case by an order dated 19.12.2000 on the ground that the petitioner did not respond to the Notification No.1 of 1997, is considered, we do not find force in such submission of learned counsel for the respondents. Such ground of rejection is untenable, for the reasons *inter-alia*:

i) that in OA.No.1547 of 1998 the petitioner's specific case was, that he had applied pursuant to the Notification No.1 of 1997, in the month of December, 1997. The judgment of the Tribunal in OA.No.1547 of 1998, dated 20.11.1998 shows that the said OA was decided with the direction that the petitioner should submit representation with further direction to the respondent No.2 to dispose of the same. A perusal of order dated 16.11.2000, in MA.No.659 of 2000 in OA.No.1547 of 1998, further shows that pursuant to the order in main OA the petitioner had

submitted representation dated 12.12.1998 & 13.10.2000. In view of the reply of the respondents that the petitioner had not submitted representation, the Tribunal observing that as in any case, on the date of order dated 16.11.2000, the respondents were in possession of representations dated 12.12.1998 & 13.10.2000, directed the respondent No.2 to consider those representations. The order of the Tribunal had attained finality. So, the respondents were bound to consider those representations, which could not be rejected by impugned order on the ground that the petitioner did not respond to Notification No.1 of 1997.

ii) that the last date of receiving the representation/application pursuant to the Notification No.1 of 1997 was upto 31.12.1997. However, the competent authority took decision to extend such period upto 31.05.2001 for which proceedings dated 03.05.2001 and the notification dated 24.05.2001 were issued. Consequently, it cannot be said that the petitioner's representation filed in the year 1998, even if it be taken that it was after 31.12.1997, could not be said to be not within the time. It was within the extended period i.e., upto 31.05.2001.

13. So far as the submission with respect to the appointment given to the persons out of the same list including at Sl.Nos.8, 9 & 21 is concerned, the said fact has not been disputed. The only submission is that they had applied in time. We have held above that the petitioner's representation was also in time and in any case within the extended time. The respondents therefore had to

comply with the order of the Tribunal and to consider the petitioner's case at par the persons at Sl.Nos.8, 9 & 21 of the same list.

14. In view of the aforesaid consideration, this Writ Petition is also allowed, directing the respondents to consider the case of the petitioner for appointment under the land looser quota within a period of four (04) weeks from the date copy of this order is placed before the respondent authorities. If the age-relaxation is required, the same will also be duly considered by the competent authority and in that regard the petitioner shall not be discriminated.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

That Rule Nisi has been made absolute as above. Witness the Hon'ble the Chief Justice Sri Dhiraj Singh Thakur on this Monday, Ninth day of December, Two Thousand and Twenty Four.

//TRUE COPY//

**SD/- K. TATA RAO
DEPUTY REGISTRAR**

For *85*
SECTION OFFICER

To,

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad,
2. The Chief Workshop Manager, Carriage Repair Shop, S.C. Railway, Tirupathi, Chittoor District.
3. One CC to M/s. C. Sindhu Kumari, Advocate [OPUC]
4. One CC to Sri Chidambaram Sastry, Advocate[OPUC]
5. One CC to Sri Pasala Ponna Rao, Deputy Solicitor General of India, High Court of A.P.[OPUC]
6. Three CD Copies.

ssb

HIGH COURT

DATED:09/12/2024

ORDER

WP.No.2926 of 2006



ALLOWING THE W.P. WITHOUT COSTS