

GAHC010192002017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 44/2017

1:SUSHANTA SARKAR
S/O SRI JITENDRA NATH SARKAR R/O VILL- KANURI, PART-II, P.O.
RATIADAHA P.S. GOLAKGANJ DIST. DHUBRI, ASSAM PIN - 783334.

VERSUS

1:THE UNION OF INDIA and 7 ORS
MINISTRY OF RAILWAYS, REP. BY THE SECRETARY TO THE GOVT. OF
INDIA, DEPARTMENT OF RAILWAYS, NEW DELHI-1.

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
REVENUE DEPARTMENT
DISPUR
GUWAHATI -06.

3:RAILWAY BOARD
REP. BY ITS CHAIRMAN
RAIL BHAVAN
RAISING ROAD
NEW DELHI-110001.

4:THE GENERAL MANAGER
NORTHEAST FRONTIER RAILWAY
HEAD QUARTER
MALIGAO
GUWAHATI
ASSAM
PIN- 781011.

5:THE GENERAL MANAGER
P
NORTHEAST FRONTIER RAILWAY
HEAD QUARTER

MALIGAON
GUWAHATI
ASSAM
PIN - 781011.

6:THE DEPUTY COMMISSINER CUM COLLECTOR
DHUBRI
DIST. DHUBRI
ASSAM.

7:THE CIRCLE OFFICER
GOLAKGANJ REVENUE CIRCLE
GOLANKGANJ
DIST. DHUBRI
ASSAM.

8:THE DEPUTY CHIEF ENGINEER/CON
NORTHEAST FRONTIER RAIALWAY
JOGIGHOPA
ASSAM

Advocate for the Petitioner : MR.S K ROY

Advocate for the Respondent : MSB DEVI

Linked Case : WP(C) 7582/2016

1:MONINDRA NATH ROY
S/O SRI MONBHOLA ROY
VILL. KALDOBA
PART- III
P.S.and P.O. AGOMANI
DIST- DHUBRI
ASSAM
PIN-783335

VERSUS

1:THE UNION OF INDIA and 7 ORS
MINISTRY OF RAILWAYS
REP. BY THE SECY. TO THE GOVT. OF INDIA
DEPTT. OF RAILWAYS

NEW DELHI-1

2:THE STATE OF ASSAM
REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM
REVENUE DEPTT.
DISPUR
GHY-6

3:RAILWAY BOARD
REP. BY ITS CHAIRMAN
RAIL BHAVAN
RAISINA ROAD
NEW DELHI-1

4:THE GENERAL MANAGER
NORTHEAST FRONTIER RAILWAY
H.Q.- MALIGAON
GHY-11
ASSAM

5:THE GENERAL MANAGER P
NORTHEAST FRONTIER RAILWAY
H.Q.- MALIGAON
GHY-11
ASSAM

6:THE DY. COMMISSIONER CUM COLLECTOR
DHUBRI
DIST- DHUBRI
ASSAM

7:THE CIRCLE OFFICER
AGOMANI REVENUE CIRCLE
AGOMANI
DIST- DHUBRI
ASSAM

8:THE DY. CHIEF ENGINEER/CON
NORTHEAST FRONTIER RAILWAY
JOGIGHOPA
ASSAM

Advocate for the Petitioner : MR.S K ROY
Advocate for the Respondent : MS.M CHATTERJEE

1:CHANDRA SEKHAR ROY
S/O- SRI MAHENDRA NATH ROY @ MAHENDRA ROY
R/O VILL.- BELGURI PART- II
P.O.- RATIADAAHA
P.S.- AGOMANI
DIST.- DHUBRI
ASSAM
PIN- 783334.

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1:THE UNION OF INDIA and 7 ORS
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DIST.- DHUBRI
ASSAM.

7:THE CIRCLE OFFICER
AGOMANI REVENUE CIRCLE
AGOMANI
DIST. - DHUBRI
ASSAM.

8:THE DY. CHIEF ENGINEER / CON.
N.F. RAILWAY
JOGIGHOPA
ASSAM.

Advocate for the Petitioner : MRSM M ROY
Advocate for the Respondent : GA
ASSAM

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 28-02-2018

Heard Mr. S.K. Roy, counsel for the petitioners. Also heard Ms. U. Chakraborty, the Special Senior Railway Advocate and Mr. N. Goswami, who appears for the State respondents.

All these three Writ Petitions are disposed of by this common order as the subject matter in issue are the same.

2. The case of the petitioners in brief is that the lands belonging to the fathers of the petitioners were acquired and taken possession of by the Railway Authorities in the year, 2005. The compensation amount for acquisition of the lands were also given by the Railway Authorities to the fathers of the petitioners in the year 2005.
3. The petitioners counsel submits that the Government of India, Ministry of Railways (Railway Board) had made a scheme vide Circular dated 16.07.2010, whereby appointment of land losers affected by land acquisition for railway projects to post having PB-1 pay band of Rs. 5200-20,200/- with Grade pay of Rs. 1800, could be made.
4. The petitioners counsel submits that as per the scheme for appointment of land losers

effected by land acquisition for railway projects as per the Circular dated 16.07.2010, the petitioners should also have been considered for appointment to the said post of PB-1, as the son of land owners were also entitled to be considered for appointment.

5. The counsel for the respondents submits that the acquisition of the lands of the petitioners fathers had been completed in the year 2005. The petitioners fathers had been given the entire compensation amount and possession of the land had also been taken in the year 2005. She submits that the Circular dated 16.07.2010 was not in existence in the year 2005 and as the said circular has only a prospective effect, the same would not be applicable to cases which occurred prior to the date of the issuance of the circular.

6. I have heard the learned counsels for the parties.

7. The facts regarding the completion of the acquisition proceedings in the year 2005 is an admitted fact. Clause 8 of the Circular dated 16.07.2010 states that **"these instructions normally will not be applicable in those cases where land acquisition process has been concluded by way of possession of land by Railway."** As per Clause 8 of the circular dated 16.07.2010, the case of the petitioners is not covered by the scheme for appointment of land losers, as the possession of the acquired lands by the Railways had been taken in the year 2005. Even if clause 8 of the Circular dated 16.07.2010 is assumed to be not applicable, this Court finds that the said circular cannot be made applicable to the petitioner's case, as the circular does not have retrospective effect. The above writ petitions are also hit by delay and laches as the cases have been filed 11 and 12 years after the acquisition proceedings have been completed in all respects.

8. In view of the reasons stated above, this Court does not find any merit in the Writ Petitions and they are accordingly dismissed.

JUDGE

Comparing Assistant