

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.A.No.98 of 2014

G.BALACHANDAR

Appellant/Petitioner

Vs.

1 THE COLLECTOR
SALEM DISTRICT

2 THE CHAIRMAN CUM MANAGING
DIRECTOR TAMIL NADU ELECTRICITY GENERATION
AND DISTRIBUTION CORPORATION LTD NO.144
ANNA SALAI CHENNAI-2.

3 THE CHIEF ENGINEER (PERSONNEL)
TAMIL NADU ELECTRICITY GENERATION AND
DISTRIBUTION CORPORATION LTD NO.144 ANNA
SALAI CHENNAI-2.

4 THE SUPERINTENDING ENGINEER
GENERAL METTUR THERMAL POWER STATION
TAMIL NADU ELECTRICITY GENERATION AND
DISTRIBUTION CORPORATION LTD
METTUR DAM-636 406.

5 THE EXECUTIVE ENGINEER
CIVIL CIVIL MAINTENANCE-1 METTUR THERMAL
POWER STATION TAMIL NADU ELECTRICITY
GENERATION AND DISTRIBUTION CORPORATION LTD
METTUR DAM-636 406. RESPONDENTS/RESPONDENTS

Writ Appeal filed under Clause 15 of the Letters Patent against
the order dated 01.10.2013 passed in W.P. No.27056 of 2013.

Petition under Article 226 of the Constitution of India, to
issue a writ of certiorarified mandamus, calling for the records
relating to the 3rd respondent impugned order made in Letter
No.059033/346/ G9/G91/2005 dated 5.2.2007 and the consequent impugned
order passed by the 5th respondent made in Letter No.Say.Po/ KaPa.1/
NiA/ MayAMiNi/ Ko.14 Vay.Va/ A.No.115/4/13 dated 21.8.2013 and quash

the same as illegal and without jurisdiction and consequently direct the respondents 2 to 5 to provide employment assistance to the petitioner for the acquired land situated at P.N.Patti Village Mettur Taluk Salem District comprised in S.No.502/1 measuring an extent of 0.83.0 Hectares for the upper Ash Dyke Dumping Scheme Mettur Thermal Power Project.

For appellant Mr. G. Anandakumar

For R1 Mr. N. Sakthivel, Government Advocate

For RR 2-5 Mr. P.R. Dhilip Kumar

JUDGMENT

(Judgment of the Court is delivered by SATISH K. AGNIHOTRI,J.)

With the consent of the parties, the writ petition is taken up for final disposal.

2 Mr. N. Sakthivel, learned Government Advocate, takes notice for the first respondent. Mr.P.R. Dilip Kumar, learned Standing Counsel takes notice for respondents 2 to 5.

3 The appellant who was the writ petitioner, questioning the legality of the order passed by the third respondent in Letter No.059033/346/G9/G91/2005 dated 05.02.2007 and also the consequential order dated 21.08.2013 passed by the fifth respondent, filed a writ petition before the Writ Court. Challenging the dismissal of the said writ petition, the appellant had come up with the instant intra-Court appeal.

4 The precise issue involved in the instant appeal is as to whether the appellant is entitled to the benefit of employment of one member from his family on account of the acquisition of lands by the respondents 2 to 5 under G.O. Ms.No.656, Labour and Employment Department dated 19.06.1978.

5 Sri. G. Anandakumar, learned counsel for the appellant would submit that the Writ Court recorded the fact that the appellant's father was a Senior Chargeman in Chemplast Sanmar Ltd., drawing about Rs.23,108/- as monthly income on the date of acquisition of the land. It was also recorded that subsequent to his retirement on 11.09.2007, it did not appear that the land in question which was subject to acquisition was the only source of income of the appellant's father's family. It is next urged that the Writ Court completely ignored the fact that the requirement of the aforesaid Government Order was not the only source of income, but, the major source of sustenance for the family, after and before the retirement of the appellant's

father. The major source of income was the agricultural land which was not considered in its proper perspective. It is next contended that the respondents ought to have held a proper enquiry to establish as to whether the land in question was the major source of income or not.

6 Per contra, Sri. P.R. Dhilip Kumar, learned counsel for respondents 2 to 5 would fairly submit that no enquiry was held to find out the source of income in addition to the salary of the appellant's father at the time of acquisition of the land in question. It was also contended that having recorded the value of salary, it can be safely said that the salary was the major source of income. The appellant's family had already been compensated for acquisition of the land in question. Grant of employment was only an additional benefit in addition to the compensation for acquisition of the land.

7 We have examined the rival contentions advanced by the parties and also perused the documents and pleadings appended thereto.

8 There is no dispute that G.O. Ms.No. 656, Labour and Employment Department dated 19.06.1978, provides for grant of employment to, at least, one member of each family which is displaced on account of acquisition of lands for any project of public sector undertakings. Needless to state that the land in question was acquired for Upper Ash Dyke Dumping Scheme at Mettur Thermal Power Station. Clause (iii) of paragraph no.2 of the said Government Order further provides that the appointing authorities of the concerned public sector undertaking shall themselves ascertain and decide as to whether the land was the major source of sustenance of the family displaced on account of acquisition of the land.

9 On a careful perusal of the said Government Order, it is evident that the requirement was not the only source, but, a major source. The appellant's father's salary of Rs.23,108/- cannot, in all cases, be held as the major source of sustenance. Even otherwise, it was held by the Writ Court that it was the only source of income without, admittedly, proper verification by the authorities.

10 The people who own agricultural lands develop sentimental attachment with their lands and for several needs, the agricultural land is a major source of income. We cannot come to any conclusion unless there is a proper enquiry in the factum of the case with regard to the issue as to whether the land in question was the major source of sustenance or not.

11 As a sequel, the respondents 2 to 5 are directed to issue a fresh notice and hold an enquiry to establish the fact as to whether the land in question was the major source of sustenance. If it is found on enquiry that it was the major source of sustenance, any

member of the family, including the appellant, shall be considered for employment in accordance with G.O. Ms. No.656, Labour and Employment Department dated 19.06.1978.

12 Resultantly, we set aside the order dated 01.10.2013 passed by the Writ Court and allow the writ appeal to the above extent. Costs made easy.

Sd/-
Assistant Registrar
Dated:3.2.15

True Copy

Sub Assistant Registrar

To

- 1 THE COLLECTOR
SALEM DISTRICT
- 2 THE CHAIRMAN CUM MANAGING
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+1 cc to M/s.G.Anandhakumar, Advocate, SR.3918

+1 cc to Government Pleader, SR.4106.

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krd 5/2

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