

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6363 of 2011****Judgment reserved on 10-05-2016****Judgment delivered on 16-08-2016**

1. Gopal Krishna S/o Shri Ganesh Ram, aged about 28 years, R/o Dipka Tah. Katghora Distt, Korba CG

---- Petitioner**Versus**

1. South Eastern Coalfields Ltd., through its Chairman and Managing Director, Head Office, Vasant Vihar, Seepat Road, Bilaspur CG
2. General Manager SECL Gevra Project Gevra Korba CG
3. Senior Manger Mining SECL Gevra Project Gevra Korba CG
4. Collector, Korba CG

---- Respondent

For Petitioner	Shri R.S. Baghel, Advocate
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For Respondents	Shri H.B. Agrawal, Sr. Adv. with Shri Pankaj Agrawal, Advocate
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Hon'ble Shri Justice Prashant Kumar Mishra**C A V Order**

1. The instant writ petition under Article 226 of the Constitution of India has been preferred by the petitioner seeking a direction to the respondent South Eastern Coalfields Limited (SECL) to

appoint him on a suitable post as also to provide suitable compensation.

2. Fact of the case, briefly stated, are that in the year 1982 land belonging to the petitioner's family was acquired for the benefit of the respondent SECL. In the year 2002 the petitioner's father was offered appointment, however, being old and infirm he expressed his inability to join service and nominated his son i.e. the petitioner for obtaining employment. In the year 2009 the petitioner was informed vide Annexure – P/4 for completing the formalities so that the steps can be taken for providing employment in lieu of acquisition of land. This letter was addressed to the petitioner's father. The petitioner, thereafter, submitted the required documents on 26-2-2010 (Annexure - P/5). Subsequently, a newspaper proclamation was published on 14-10-2010 in daily Navabharat newspaper providing list of 80 persons in respect of whom the proceedings for providing employment was under process. The proclamation desired submission of objection by the enlisted persons or any other interested persons, however, thereafter, the petitioner was not offered appointment and nothing was informed to him about the outcome of the proceedings. The petitioner served a legal notice through his lawyer vide Annexure – P/7 to which the SECL replied vide Annexure – P/8 informing the petitioner through his

lawyer that the petitioner's father Ganesh Ram was offered appointment on 23-12-2002, however, he did not join, therefore, it is a case of deemed relinquishment of benefit of employment and, as such, his claim after long period is not maintainable.

3. In the return, the respondent SECL reiterated its stand that the petitioner's father was offered appointment in the year 2002 to work as Loader, however, he did not join, therefore, the petitioner is not entitled for consideration of his case for employment in lieu of acquisition of land. It is also stated and argued that the petition has been filed in the year 2011 even though the acquisition of land was made in the year 1982.
4. From the material available on record and the arguments advanced by the learned counsel appearing for the parties, it appears, indisputable, that the land belonging to the petitioner's father was acquired in the year 1982, however, employment was not provided till 2002 when some offer was made to the petitioner's father, though the documents to this effect has not been submitted by the respondent SECL, Annexure – P/3 is a document submitted by the petitioner wherein his father has nominated him for obtaining employment in lieu of acquisition of land.

5. It further appears that on the basis of this nomination, the petitioner was served a communication on 21-12-2009 requiring him to complete the formalities by submitting documents, which the petitioner duly complied on 26-2-2010 and, thereafter, his claim was neither rejected nor any appointment order was issued in his favour. The SECL issued a proclamation inviting objections from the interested persons for grant of employment to several land oustees including the petitioner. Since this proclamation was issued in October, 2010, a few months after completion of the formalities in February, 2010, it clearly appears in absence of any document in rebuttal that the papers submitted by the petitioner were found in order, therefore, by way of final step the proclamation was issued. Petitioner's name appears at S.No.67 of the list of persons who were considered for appointment.
6. When the matter thus stood settled, but nothing was informed to the petitioner a legal notice was served in reply to which the SECL did not dispute the acquisition of land belonging to the father of the petitioner or the offer of appointment made to him, however, it is the stand of the SECL that the petitioner's father relinquished the offer of employment by not joining as Loader, therefore, the petitioner has no right to claim appointment after much lapse of time.

7. The stand taken by the SECL does not appear to be born from material on record because there is no such document submitted with the return to demonstrate as to when the appointment was offered to the petitioner's father. Similarly, the SECL has not referred to any provision of the rehabilitation policy wherein non-joining of a person offered appointment would be treated as relinquishment of his right and the extinguishment of right of such person to nominate any of his dependent to obtain employment. In absence of any such clause in the rehabilitation policy having been produced before the Court, the stand taken by the SECL does not appear to be supported with any statutory provision or terms of the policy.
8. Since the SECL has not denied the claim of the petitioner on any such ground like non-acquisition of land, unsuitable for employment under the rehabilitation policy, etc., the petitioner appears to be fully entitled for employment.
9. The objection raised by the SECL to the maintainability of the writ petition on the ground of delay and laches is mentioned only to be rejected because the documents available on record would clearly reveal that till October, 2010 the process of appointment was going on and when nothing was informed to the petitioner a legal notice was served to which reply given by the SECL in July,

2011 and, thereafter, the present petition has been preferred by the petitioner before this Court in September, 2011, the petition is, thus, not barred by delay and laches.

10. For the foregoing, the writ petition deserves to be and is hereby allowed. The respondent SECL is directed to consider and grant employment, in lieu of acquisition of land belonging to the petitioner's family, in favour of the petitioner, within a period of three months from today.
11. There shall be no order as to costs.

Sd/-

Judge
Prashant Kumar Mishra

Gowri