

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1215 of 2016**

- Sangram Singh Rajput S/o Shri Surendra Singh Rajput, Aged About 27 Years R/o Village Janji, Presently R/o House No. D- 6, C.K. Awas, Ashok Nagar, P.S. Sarkanda, Sipat Road, Bilaspur, District Bilaspur, (Chhattisgarh)

---- Petitioner

Versus

- National Thermal Power Corporation Limited Through The Sr. Manager (H. R.), National Thermal Power Corporation Limited, Sipat Super Thermal Power Station, Post Office Ujjawal Nagar, Sipat, P.S. Sipat, District Bilaspur, (Chhattisgarh)

---- Respondent

For Petitioner	:	Shri Sanjay S. Agrawal, Advocate
For Respondent	:	Dr. NK Shukla, Sr. Adv. with Shri Shaleen Singh Baghel, Advocate

Hon'ble The Chief Justice**Order On Board****26/08/2016**

1. Short question which arises in this Writ Petition is- whether the petitioner is entitled to grant of employment under the rehabilitation scheme framed by the NTPC. It is not disputed that clause 2.6.2 of the rehabilitation scheme reads as follows:-

“As per RAP Clause 2.6.2: “ All persons (Khatedars) whose land is being acquired for the project and fulfill the above mentioned eligibility criteria but are employed in any Govt./semigovt./public sector department etc. on a permanent post shall not be eligible to receive the rehabilitation benefits. However, such persons (Khatedars) whose land is being acquired for the project and fulfill the above mentioned eligibility criteria, and are employed in any Govt./semigovt./public sector department etc on a permanent post, shall be entitled to receive the

rehabilitation benefits provided that they have been residing in any of the eight affected villages from where land is being acquired for the project since at least five years prior to date of publication of Sec.4 (1) notification under the land Acquisition Act, 1894, i.e. five years prior to 06.11.1998.”

2. The admitted facts are that the father of the petitioner was a permanent employee of the NTPC and he right from 1978 to April, 2000 was posted at NTPC Korba. He was also granted family accommodation, which means that his family including the petitioner was residing with him. This fact is really not disputed.
3. The main argument of Shri Agrawal, learned counsel for the petitioner is that though the father of the petitioner may have been residing at Korba in connection with his employment he continued to be permanent resident of the village in question and therefore, the son i.e. the present petitioner is also permanent resident of the village and hence entitled to employment. Shri Agrawal, learned counsel also submits that pursuant to the rehabilitation scheme a list was drawn up and in the said list, the name of father of the petitioner was shown as one of the beneficiaries and entitled to grant of employment. Thereafter the petitioner was also sent for training to the I.T.I. by the NTPC itself only because NTPC felt that he was covered under the rehabilitation scheme. It is lastly submitted that he was asked to appear in the test and interview and it was only after he has been successful in the test that the order Annexure P-1 dated 19.09.2015 has been issued.
4. Shri Agrawal, learned counsel for the petitioner is absolutely right when he submits that the NTPC till issuance of letter dated 19.09.2015 was treating the petitioner to be entitled to the benefits of rehabilitation scheme. This fact is proved beyond doubt. This does not mean that the NTPC cannot correct its mistake. It may be true that the NTPC prior to 19.09.2015 was treating

the petitioner and his father entitled to the benefit of employment but the question is that whether the petitioner falls within the ambit of RAP clause 2.6.2 or not. The first part of the clause clearly provides that those land owners whose land is being acquired but are/or have been permanent employee of Government, semi government and public sector department on permanent post shall not be eligible to receive the rehabilitation benefits. The second part of the clause which is in the nature of proviso to the first part clearly mentions that those land owners who fell in the above category but are residing in any of the eight affected villages for a period of at least 5 years prior to 06.11.1998, the date of notification under Section 4 (1), would be entitled to these benefits.

5. Admittedly, the petitioner and his father would not actually be residing in the village in question. The argument is that he was permanent resident of the village and in connection with the job they were staying outside. Therefore, there always had the *animus revertendi* to return back to the village after retirement and therefore, are permanent resident of the village.
6. I am afraid that this argument cannot be accepted because if we read this clause, it appears that those land owners who are in permanent job in government or semi government departments are not entitled to the benefit of the rehabilitation scheme. If the argument of Shri Agrawal, learned counsel for the petitioner is accepted, then all the land owners who originally belonged to this area where the land has been acquired would be permanent residents and domiciles of that area having *animus revertendi*, to return back to the village after completing their job and would be entitled to rehabilitation. This cannot be the intention of the scheme because the scheme clearly envisages that those who are in government service would not get benefit of rehabilitation.

7. The exception which has been carved out is that those who are government servants but are residing in any of the eight villages for a period of five years immediately prior to 06.11.1998 would be entitled to benefit of the rehabilitation scheme. While framing rehabilitation scheme, it was felt that the persons who must be cultivating the land and reaping other benefits would get benefit of rehabilitation. There is a reasonable classification between those who were actually residing and those who may have domicile in the village but not actually residing in the village.
8. In this view of the matter, I cannot accept the argument of Shri Agrawal, learned counsel for the petitioner.
9. The Writ Petition is accordingly dismissed.

Sd/-
(Deepak Gupta)
Chief Justice