

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4532 OF 2016

Sau. Mala Moreshwar Suple

-vs-

Union of India, thr.its Secretary, Deptt.of Mines Govt.of India and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.P.J.Mehta and Mr.A.P.Satpute, counsel for the petitioner.
Mr.Saurabh Chaudhari, counsel for the respondent Nos.1 and 2.
Mr. C.S.SAmudra, counsel for the respondent No.3.
Mr. A.M.Joshi, counsel for the respondent Nos.5 and 6.

CORAM : SMT. VASANTI A NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 13.12.2016.

By this writ petition, the petitioner impugns the communication of the respondents, dated 26/02/2016 rejecting the application of the petitioner for employment in terms of the rehabilitation policies of the year 2008 and 2012.

The land of the grandfather of the petitioner, namely Maroti Chende was acquired by the respondents in the year 1985. Maroti had nominated his elder grandson namely Harishchandra for employment. The respondents, however, found that Harishchandra was medically unfit for working in the coal mines and hence, the application of Harishchandra was rejected. The petitioner is the married granddaughter of Maroti. It is the case of the petitioner that Maroti had nominated the husband of the petitioner, Moreshwar Suple for employment after the claim of Harishchandra was rejected. According to the petitioner, though Moreshwar was called by the respondents for training, an appointment order was not issued in favour of Moreshwar. It is stated that Moreshwar is permanently unfit for working in the coal mines, as he suffers from chronic schizophrenia with 65% disability. The petitioner applied for employment, but the application of the petitioner was rejected by the impugned communication dated 26/02/2016. The petitioner has challenged the said order in the instant petition.

In the circumstances of the case, a direction cannot be issued against the respondents to provide employment to the petitioner towards the acquisition of the land of Maroti in the year 1985. Maroti had nominated only two persons, the first being Harishchandra, his grandson and the second being the husband of the petitioner, namely Moreshwar. Harishchandra was not found to be medically fit and Moreshwar admittedly suffers from 65% disability with chronic schizophrenia. The petitioner is not nominated for employment by Maroti. The petitioner has applied for the first time in the year 2015 for employment, towards the acquisition of the land of Maroti in the year 1985. More than 30 years have lapsed from the acquisition of the land. The petitioner is not a nominee of the original landholder. As per the rehabilitation policy of the respondents that was then applicable, a married granddaughter could not be nominated for employment and the petitioner was not entitled for employment. The petitioner cannot rely upon the modified rehabilitation policies of the year 2008 and 2012 to seek employment. A similar issue was considered by this court in Writ Petition No.5826 of 2011 and this court had, by the order dated 07/08/2012, held that since the land was acquired in the said case in the year 2004, the dependent could not have claimed employment on the basis of the policy of the year 2008 and he would be governed by the policy of the year 2002. The order in the said writ petition is upheld by the Hon'ble Supreme Court in Special Leave Petition Nos.13027-13032 of 2013 (Nilesh Nagpure etc.etc. v. Western Coalfields Ltd. & Ors.). By applying the said test, the petitioner would not be entitled to employment as a married granddaughter was not considered to be a dependent of the landholder in terms of the policy that was then applicable.

In the circumstances of the case, since we do not find any illegality in the impugned communication rejecting the prayer of the petitioner for employment, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE