

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

WRIT PETITION NO.4555/2016
Nilesh s/o Madhukarrao Nagpure

...Versus...

Western Coalfields Limited, through its Chairman-cum-Managing Director, Civil
Lines, Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.D. Meghe, Advocate for petitioner
Shri C.S. Samudra, Advocate for respondent no.1
Shri Tushar Darda, Adv. h/f Shri Ramesh Darda, Adv. for respondent nos.2 & 3

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

DATE : 06.12.2016

By this petition, the petitioner seeks a direction against the respondents to grant employment to the petitioner, in terms of the Rehabilitation Policy of the year 2000.

The land of the petitioner was acquired by the Western Coalfields Limited, in pursuance of the notification issued in the year 2002. The petitioner approached this Court in Writ Petition No.5826/2011, seeking a direction against the respondents to grant employment to the petitioner in terms of the Rehabilitation Policy. The said writ petition was dismissed by the order, dated 7.8.2012 along with several other writ petitions. This Court held that in the absence of *mala fides* or arbitrariness, the action on the part of the respondents of refusing to grant employment to the petitioner herein and the other petitioners in the said writ petitions could not be faulted. By a reasoned order, dated 7.8.2012, the writ petition of the present petitioner and the

petitions of the other petitioners were dismissed. The petitioner challenged the order of this Court before the Hon'ble Supreme Court in a Special Leave Petition. The Special Leave Petition was, however, dismissed by an order, dated 27.8.2015. While dismissing the Special Leave Petition, the Hon'ble Supreme Court observed that the dismissal of the Special Leave Petition would not come in the way of the respondent – authorities to consider the case of the petitioner sympathetically. By referring to the order of the Hon'ble Supreme Court, the petitioner has filed the instant petition, seeking a direction against the respondents to consider the claim of the petitioner for employment on the basis of the policy of the year 2000.

Shri Darda, the learned Counsel for the respondent nos.2 and 3 has opposed the prayer made in the writ petition. It is stated that the earlier writ petition filed by the petitioner was dismissed on merits. It is submitted that the petitioner cannot file a second writ petition for the same relief by referring to another policy of the respondents. It is stated that the acquired land of the petitioner was non-irrigated land and the petitioner is, therefore, not entitled to employment either as per the 2008 policy or as per the 2000 policy. It is stated that the order rejecting the representation of the petitioner was challenged by the petitioner in the previous writ petition and in the said order, it was clearly mentioned by the respondents that the land of the petitioner was admeasuring 0.88 HR and the same was non-irrigated. It is stated that after the first writ petition filed by the petitioner was dismissed, the petitioner cannot file this writ petition for seeking a direction against the respondents to grant employment to the petitioner.

We are inclined to uphold the objection raised on behalf of the respondents in regard to the tenability of the writ petition. The petitioner had filed Writ Petition No.5826/2011, challenging the order of the respondents, dated 11.4.2011, refusing to grant employment to the petitioner. The said writ petition was dismissed by this Court by a reasoned order. The petitioner challenged the order in Writ Petition No.5826/2011 before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the Special Leave Petition filed by the petitioner. While dismissing the Special Leave Petition, the Hon'ble Supreme Court observed that the order of dismissal would not come in the way of the respondent - authorities to consider the case of the petitioner sympathetically. The petitioner cannot take advantage of the observations made by the Hon'ble Supreme Court while dismissing the Special Leave Petition, so as to seek a direction against the respondents to grant employment to the petitioner. If the petitioner was aggrieved by the decision of the respondents, dated 11.4.2011, rejecting the representation of the petitioner for grant of employment, the petitioner should have challenged the said decision and should have claimed employment as per the policy of 2008 as well as the policy of 2000. It is well settled that all the grounds, on which a party bases the prayers or the claim in a petition, need to be canvassed in the same petition. Petitions cannot be filed time and again for seeking the same relief by raising different grounds at different points of time. This would be barred by the principles akin to the principles of *constrictive res judicata*. It would be necessary for a party approaching the Court to claim the relief on all possible grounds that could be canvassed. If the petitioner was of the view that the petitioner

ought to have been employed as per the policy of 2000 and not as per the policy of the year 2008, the petitioner should have raised that ground in Writ Petition No.5826/11. A party cannot be permitted time and again to file different petitions raising different grounds for seeking the same relief, as this would not only vex the Court but would also vex the opponent. Merely because the Hon'ble Supreme Court had observed that the order of the Hon'ble Supreme Court, dismissing the Special Leave Petition would not come in the way of the respondents in taking a sympathetic view of the matter, would not mean that a right is created in the petitioner to seek the relief again. We further find that in the order, dated 11.4.2011, that was challenged by the petitioner in Writ Petition No.5826/2011, it was the case of the respondents that the land of the petitioner was non-irrigated. If that is so and the writ petition is dismissed, the petitioner would not be entitled to employment either as per 2008 policy or as per 2000 policy.

For the reasons aforesaid, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

Wadkar