

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH
W.P.No.33395 of 2013
and M.P.No.1 of 2013

1.R.Karthikeyan
2.S.Soundararajan
3.R.Babu
4.R.Praveenkumar
5.G.Nithyanandhi .. Petitioner
.Vs.

1.Tamilnadu Generation and Distribution Corporation Ltd.,
Rep.by its Chairman cum Managing Director,
Secretariat Branch, N.P.K.K.R.Maligai,
144, Anna Salai, Chennai 600 002.
2.The Chief Engineer (Personnel)
Tamilnadu Generation and Distribution Corporation Ltd.,
Secretariat Branch, N.P.K.K.r.Maligai,
144, Anna Salai,
Chennai 600 002.
3.The Chief Engineer,
Mettur Thermal Power Project,
Salem.
4.The District Collector,
Salem District, Salem. ..Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India praying to issue a writ of Mandamus to
direct the respondents 1 to 3 to extend Job assistance
rehabilitation to the petitioners taking into consideration
their qualification and appoint them in suitable posts
appropriate to their qualification.

For petitioner : Mr.v.Prakash Senior Counsel for
M/s.K.Krishna amoorthy
For Respondents : Mr.P.R.Dhilip Kumar for
Respondent 1 to 3
Mr.R.Govindasamy
Special Govt.Pleader

O R D E R

The petitioners seek for a direction to the respondents 1 to
3 to extend Job assistance rehabilitation to the petitioners
taking into consideration their qualification and appoint them
in suitable posts, appropriate to their qualification.

2. Mr.V.Prakash, learned Senior Counsel appearing for the petitioners would submit that the respondents had acquired the lands and dwelling houses belonging to the petitioners under the land Acquisition Proceedings in the year 1992 and an award was passed on 26.08.2002. The respondent-Board had earlier issued Board Proceedings viz., P.B.Ms(FB) No.87 (Administrative Branch) dated 26.09.1986 referring to B.P.Ms.(FB) No.588 dated 20.12.1985 whereby the Chief Engineer/Mettur Thermal Power Project had undertaken to give job assistance to one member in each of the families displaced on account of acquisition of lands by the Board in the lower ash dumping area in Mettur Thermal Power Project, irrespective of the fact whether any other member in the displaced family is employed already or not, as a special case.

3. The learned Senior counsel would also submit that the respondent-Board had issued P.B.No.656, Labour and Employment Department, dated 29.06.2978 whereby the Government had offered job assistance to displaced families on account of acquisition of lands. According to the learned Senior counsel, 358 families were displaced on account of the acquisition proceedings. The respondent-Board had demanded affidavits for the purpose of job assistance from each of the beneficiaries.

4. It is the further case of the petitioners that similarly placed persons have filed a writ petition before this court in W.P.No.25117 of 2012 which was disposed of by an order dated 12.07.2013, by directing the petitioners to submit their applications before the Revenue Divisional Officer for getting the certificates that they are affected by the land acquisition proceedings and the respondent/Electricity Board was directed to consider their claim under rehabilitation scheme on the production of the said certificates issued by the Revenue Divisional Officer, and pass appropriate orders within three months from the date of receipt of certificates from the Revenue Divisional Officer. It was further stated that if the certificates from the Revenue Divisional Officer was produced, there was no need to give the undertaking affidavits. Accordingly, the petitioners had complied with the said requirements of the respondents. However, since there was no response on the part of the respondents in extending job assistance, the petitioners have filed the present writ petition for the above stated relief.

5. Mr.P.R.Dhilip Kumar, learned counsel appearing for the respondents would submit that the Board proceedings in P.B.No.87 is not applicable to the case of the petitioners. The learned Standing counsel would also submit that the Government has clearly stated that atleast one person of the family, which is displaced on account of the acquisition of the land should be considered for employment provided that the acquired lands

should have been the only major source of subsistence on that family. Since the father of the petitioners 1, 2, 4 and 5 were employed in TANGEDCO and third petitioner's father was employed in a private company in Mettur, it cannot be said that their livelihood was affected by virtue of the acquisition of lands. The learned counsel would further submit that the petitioners had received compensation and was provided alternate house sites and hence, they have not been deemed as affected by the acquisition proceedings.

6. I have considered the submissions of Mr.V.Prakash, learned Senior counsel appearing for the petitioners; Mr.R.Dhilip Kumar, learned counsel appearing for the respondents 1 to 3 and Mr.R.Govindasamy, learned Government Pleader appearing for the fourth respondent.

7. Before going into the facts of the case, it is useful to refer to the Board Proceedings in B.P.Ms.(FB)No.87 (Administrative Branch) dated 26.09.1986, which reads as follows:

B.P.Ms(FB) No.588 dated 20-12-85 orders have been issued for providing employment assistance for 289 persons at the rate of one member for each family displaced/being displaced in lower ash dumping areas. One of the conditions for providing employment assistance to the family displaced on account of acquisition of land for Construction of Projects is that no other member in the family employed anywhere

2.The Chief Engineer/Mettur Thermal Power Project has reported that among the 289 families to which providing of employment assistance is already approved, there are cases where a member is already employed and a few more cases will also arise and that unless the cases where come one is already employed in the family are considered for employment assistance as recommended by the Collector of the co-operation from land owners will not be available which will affect the construction of ash dyke badly

3. After careful consideration of the proposal of the Chief Engineer/Mettur Thermal Power Project, the Board directs that job assistance be given to one member in each family displaced/being displaced on account of acquisition of land by the Board in the lower ash dumping area in Mettur Thermal

Power Project irrespective of the fact whether any other member in the displaced family is employed already or not as a special case.

8. A reading of the Board proceedings would reveal that it has offer to extend job assistance to one member in each of the families being displaced on account of acquisition of the lands by the Board in the lower ash dumping area in Mettur Thermal Power Project, irrespective of the fact that whether any other member in the displaced family is already employed or not as a special case. Inspite of the same, the respondents have found various reasons to delay or refuse to grant such relief to the affected individuals, which cannot be accepted by this Court .

9. In my view, the petitioners have the right under rehabilitation scheme for job assistance, since having satisfied with the condition of the eligibility, The petitioner's family had lost their houses and they have been displaced on account of the acquisition for the benefit of the first respondent. The petitioners being the legal heirs of their respective families, have furnished the affidavits of undertakings that there will not be any other claims for job assistance under the rehabilitation scheme to the petitioners and hence the first respondent is duty bound to perform its obligation by providing job assistance under the rehabilitation scheme, as all of them have satisfied the eligibility criteria. Further more, inspite of the orders passed in W.P.No.25117 of 2012 dated 13.06.2012, directing the respondents to consider the claim of the petitioners within a period of three months from the date of receipt of a copy of this order, the respondents had not provided job assistance under the rehabilitation scheme to the petitioners till date. The respondent cannot take an indifferent stand of refusing job assistance in view of the earlier G.O.Ms.No.656, Labour & Employment dated 29.06.1978 and subsequent Board proceedings in P.B.No.87 (Administrative Branch) dated 26.09.1986. In identical circumstances, this Court has passed an order in W.P.No.11623 of 1999 dated 18.11.2008 wherein, it was held as follows:

5. The stand of the respondents cannot be accepted. The state Government having evolved a scheme for employment for land losers and the same having been adopted by the respondents, they cannot wriggle out from the commitment made. It must also be stated that the fact that the lands have been acquired from the petitioners for the purpose of setting up the North Chennai Thermal Power Station was not denied. Their repeated representations to the respondents have also not been properly considered.

Therefore, I find no justification on the part of the respondents in refusing to extend the job assistance to the petitioners.

10. In view of the above, there shall be a direction to the first respondent herein, to provide suitable posts to the petitioners, taking into consideration their qualification. The said process shall be completed within a period of three months from the date of receipt of a copy of this order.

This writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS

/true copy/

Sub Asst. Registrar

To

- 1.Tamilnadu Generation and Distribution Corporation Ltd.,
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Salem.
- 4.The District Collector,
Salem District, Salem.

+5 cc's to Mr.K.krishnamoorthy,advocate,sr.61428. (24/11)

gj (co)
krd 23/11

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