

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.166 of 2013

1.K.Ashok kumar
2..B.Arul
3.K.Sureshkumar

... Petitioners

.Vs.

1.Tamil Nadu Electricity Board,
Represented by its Chairman,
N.P.K.K.R.Maligai,
Anna Salai, Chennai 600 002.
2.Tamilnadu Generation and Distribution Corporation,
Rep.by its Managing Director,
N.P.K.K.R.Maligai,
Anna Salai, Chennai 600 002.
3.The Chief Engineer (Personnel)
North Madras, Thermal Power Project,
North Chennai, Chennai.
4.The District Collector,
Office of the Collectorate,
Thiruthani Main Road,
Thiruvallore District,
Thiruvallore 602 001.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus to direct the respondents to accord the benefit of rehabilitation of recruitment to the petitioners in accordance with the scheme for such rehabilitation on 25.01.1990 within the time stipulated.

For petitioner : Mr.v.Prakash Senior Counsel for
Mr.K.Krishnamoorthy

For R1 to R3 : Mrs.R.Varalakshmi, Standing Counsel

For R4 : Mr.R.Govindasamy
Spl.Govt.Pleader

O R D E R

The petitioner seeks for a direction to the respondents 1 to 3 to accord the benefit of rehabilitation of recruitment to the petitioners in accordance with the scheme for such rehabilitation on 25.01.1990.

2. The grievance of the petitioners is that they were the landlords bearing Survey No.175/1A3, 153/2, 153/3A, 155/4, 166 in Puzhuthivakkam Village & Ponneri Taluk, Thiruvallur District and the award was passed on 28.02.1992. The above lands were acquired for putting up the North Chennai Thermal Power Project and consequently, the families who have been farming were rendered jobless.

3. Mr.V.Prakash, learned Senior counsel appearing for the petitioners would submit that by an award dated 28.02.1992, the aforesaid lands of the petitioners were acquired for putting up North Chennai Thermal Power Project and owing to the said acquisition, their families who had hitherto been farming were rendered jobless. According to the learned Senior counsel, the Government had issued G.O.Ms.No.656, Labour and Employment Department dated 29.06.1998, by virtue of the which, all State public sector undertakings have provided employment to atleast one person of the family displaced on account of acquisition of the land. Adopting the said Government Order, the respondent Board by its proceedings in P.B.(M)24 dated 10.01.1980, made the provisions of G.O.Ms.No.656 dated 29.06.1978, as applicable for the purpose of providing employment opportunity to one member of the displaced families in their department. In spite of the same, no assistance has been extended to the petitioners, till date. The petitioners had sent several representations in this regard, which had not been considered by them, till date. Therefore, the learned Senior counsel would urge this Court to give suitable direction to the respondents for providing employment to each of the petitioners.

4. Mr.P.R.Dhilip Kumar, learned counsel appearing for the respondents would submit that the G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978 and the consequential Board Proceedings in B.P.No.3 dated 25.01.1990 enable providing for employment to land losers in the ratio of one person per family, whose lands were acquired, if the land was the only major source of living for their families. It was stated that under the rehabilitation scheme, for the lands acquired from Vayaloor Village, no persons were recommended by the District Collector. Therefore, the respondents were unable to accept the contentions made by the petitioners.

5. I have considered the submissions of Mr.V.Prakash, learned Senior counsel appearing for the petitioners and Mrs.R.Varalakshmi, learned Standing counsel appearing for the respondents 1 to 3 and Mr.R.Govindasamy, learned Special Government Pleader appearing for the 4th respondent

6. A reading of the Board proceedings would reveal that it has extended 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 North Madras, 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. In spite 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. The State Government has evolved a scheme for employment of land losers and the same has been adopted by the respondents. While that being so, now the respondents cannot take indifferent attitude and keep the petitioners anticipation for their employment indefinitely. In identical circumstances, this Court has passed an order dated 18.11.2008 made in W.P.No.11623 of 1999, wherein it has been observed as follows:

"The writ petition was admitted on 07.07.1999. On notice from this Court, the first respondent Tamil Nadu Electricity Board had filed the counter affidavit dated 'nil' (1999). The fact that the lands were acquired from the petitioners were accepted in the counter affidavit and compensation has also been paid. It was agreed that the G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978 and the consequential Board Proceedings in B.P.No.3 dated 25.01.1990 enable providing for employment to land losers in the ratio of one person per family, whose lands were acquired, if the land was the only major source of living for their families. It was stated that under the rehabilitation scheme, for the lands acquired from Vayaloor Village, no persons were recommended by the District Collector. Therefore, the Board was unable to accept the plea made by the petitioners.

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."

7. It would not be out of place to mention here that the representations made by the petitioners in this regard, are kept in cold storage by the respondents. The very act of not responding to the petitioners' representations by the respondents would amount to dereliction of duty on the part of the respondent. In view of their unreasonable silence, the petitioners have been constrained to exercise their rights by filing this writ petition. Therefore, I am of the view that the petitioners have a right under the aforesaid rehabilitation scheme for job assistance and that the respondents are not justified in postponing the requests of the petitioners.

8. Hence there shall be a direction to the second respondent to provide suitable employment to the petitioners as envisaged in G.O.Ms.No.656 of the Labour and Employment Department dated 29.06.1978 and as per the respondent's proceedings in P.B.(PER) FB.No.3 dated 25.01.1990 and issue appointment letters to each of the petitioners herein, 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.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kkd
To

1. Tamil Nadu Electricity Board,
Represented by its Chairman,
N.P.K.K.R.Maligai,
Anna Salai, Chennai 600 002.

2.Tamilnadu Generation and Distribution Corporation,
Rep.by its Managing Director,
N.P.K.K.R.Maligai,
Anna Salai, Chennai 600 002.

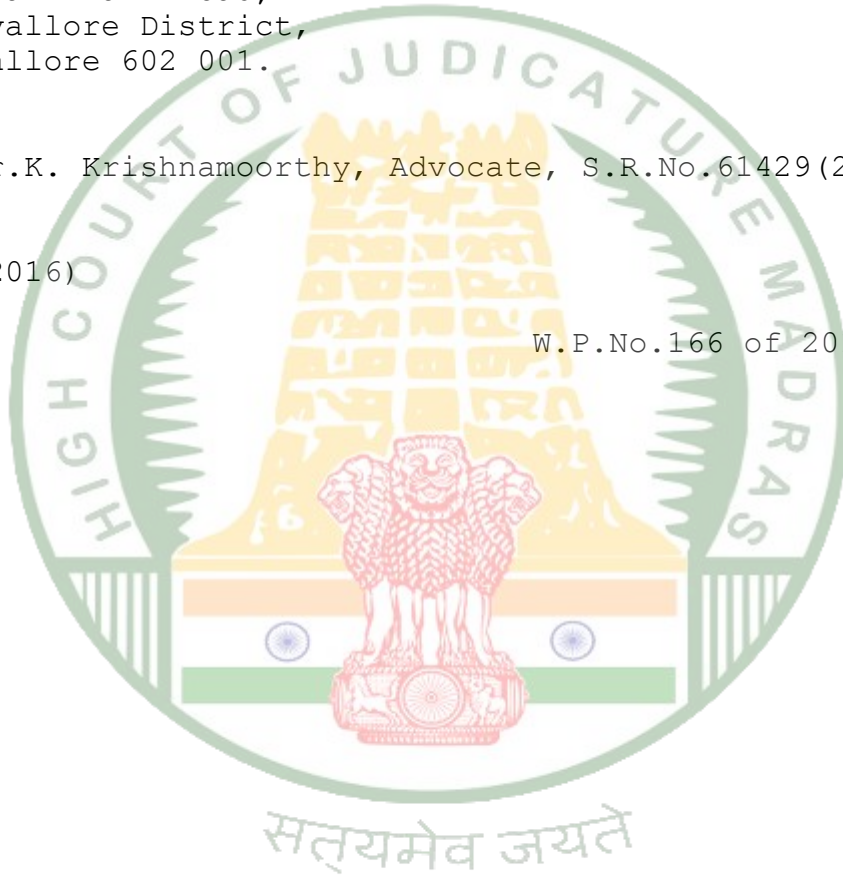
3.The Chief Engineer (Personnel)
North Madras, Thermal Power Project,
North Chennai, Chennai.

4.The District Collector,
Office of the Collectorate,
Thiruthani Main Road,
Thiruvallore District,
Thiruvallore 602 001.

+3cc to Mr.K. Krishnamoorthy, Advocate, S.R.No.61429(24/11/2016)

GJII(CO)
md(23/11/2016)

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