

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 1196 OF 2017

- Rajendra Prasad Jaiswal S/o R. C. Jaiswal, Aged About 46 Years R/o Village & Post Office Karwan, District Surajpur (Chhattisgarh).

... Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Rehabilitation Department, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh).
2. Secretary, Department Of Rehabilitation Madhya Pradesh, Satpura Bhawan, Arnya Hills, Bhopal (Madhya Pradesh).
3. Chairman Cum Managing Director, South Eastern Coalfields Limited, Headquarter, Seepat Road, Bilaspur, District Bilaspur (Chhattisgarh).
4. The General Manager, South Eastern Coalfields Limited, Bistrampur Area, Bistrampur, District Surajpur (Chhattisgarh).

... Respondents

For Petitioner	:	Mr. V.K. Pandey, Advocate.
For Respondents 1 & 2	:	Mr. B. Gopa Kumar, Dy. Advocate General.
For Respondents 3 & 4	:	Mr. Vikram Sharma, Advocate, under instructions of Dr. N.K. Shukla, Senior Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/03/2017

1. The present writ petition has been filed by the Petitioner particularly seeking for the following two reliefs:

“10.2 This Hon'ble Court may kindly be pleased to declare the amendment dated 21.12.1995 made in the rehabilitation policy as unconstitutional.

10.3 This Hon'ble Court may kindly be pleased to direct the respondents to consider the case of the petitioner to give employment in lieu of acquisition of land as per the rehabilitation policy dated 25.09.1991 within stipulated period.”

2. So far as the relief no.2 is concerned, the Petitioner had on an earlier occasion filed two writ petitions. One writ petition was Writ Petition No. 131 of 2001 which got decided on 23.1.2006 by this Court, directing the Respondents to consider the case of the Petitioner and other similarly placed persons for grant of employment in lieu of acquisition of land. Thereafter, the claim of the Petitioner was rejected by the Respondents vide order dated 11.12.2006. The

said order dated 11.12.2006 was put to challenge by the Petitioner by way of a fresh writ petition i.e. Writ Petition (S) No. 6701 of 2007, which got dismissed on 28.10.2014 by this Court. Against the rejection of the said writ petition, the Petitioner had preferred a writ appeal, i.e., Writ Appeal No. 421 of 2014, before this Court, which also got dismissed on 5.12.2014. Thus, the rejection of the claim of the Petitioner stands affirmed and the order passed by the Single Bench dismissing the writ petition of the Petitioner seeking for employment, also gets affirmed.

3. Subsequently, now the fresh writ petition has again been filed by the Petitioner on 27.2.2017, by modifying the writ petition only to the extent by challenging the policy of 1995 on the basis of which the claim for employment had been rejected. The second prayer is in fact for grant of employment which already stands adjudicated upon.

4. This Court does not find it to be a fit case for entertaining the present writ petition, for the reason that the Petitioner cannot be permitted to approach the Court on repeated occasions each time by modifying the grounds and relief where the main relief which has been sought for is of employment. Cosmetic changes in the writ petition by itself cannot change the nature of the writ petition. A litigant does not have a right to approach the Court time and again for the same cause of action by only changing grounds each time. All these grounds which have been raised in the present petition were also available to the Petitioner at the first instance when the first writ petition was filed and were also available when the second writ petition was filed and having failed on two earlier occasions the Petitioner cannot now be permitted to re-agitate the same cause of action with only a change in the grounds or one of the reliefs in the writ petition.

5. In the case of Hitendra Borkar v. State of Chhattisgarh & Another, reported in AIR 2015 CHHATTISGARH 165, this Court has relied upon the decision of Hon'ble Supreme Court, on the issue of res judicata, rendered in the case of State of Karnataka & Another v. All India Manufacturers Organisation & Others [2006 (4) SCC 683], while rejecting the writ petition, wherein the Supreme Court has held as under:

“Res judicata is a doctrine based on the larger public interest and is founded on two grounds: one being the maxim nemo debet bis vexari pro una et eadem causa (No one ought to be twice vexed for one and the same cause) and second public policy that there ought to be an end to the same litigation. Section 11, CPC is not the foundation of the principle of res judicata, but merely statutory recognition thereof and hence, the section is not to be considered exhaustive of the general principle of law. The main purpose of the doctrine is that once a matter has been determined in a former proceeding, it should not be open to parties to reagitiate the matter again and again. Section 11, CPC recognises this principle and forbids a court from trying any suit or issue, which is res judicata, recognising both “cause of action estoppel” and “issue estoppel.”

6. For the foregoing reasons, this Court does not intend to entertain the present writ petition and the same is accordingly dismissed. No order as to costs.

Sd/-
(P. Sam Koshy)
Judge