

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.Nos.1693 to 1699 of 2017
and
CMP.Nos.21769 to 21781 of 2017

- 1.Tamil Nadu Electricity Board
rep. by its Chairman,
NPKKR Maligai, Anna Salai, Chennai - 600 002.
- 2.The Tamil Nadu Generation and Distribution Corporation
rep. by its Managing Director,
NPKKR Maaligai, Anna Salai, Chennai - 600 002.
- 3.The Chief Engineer,
North Madras Thermal Power Project,
North Chennai, Chennai - 600 057. Appellants

vs.

- M.Ramachandran 1st respondent in WA.1693/2017
- S.Suseela 1st respondent in WA.1694/2017
- N.Kuppan 1st respondent in WA.1695/2017
- B.Kanthammal ... 1st respondent in WA.1696/2017
- T.Rajendiran ... 1st respondent in WA.1697/2017
- S.Neela ... 1st respondent in WA.1698/2017
- M.Subramaniam ... 1st respondent in WA.1699/2017

- 2.The District Collector,
Office of the Collectorate,
Thiruthani Main Road,
Thiruvallore District,
Thiruvallore 602 001. 2nd Respondent
in all the writ appeals

Writ Appeals filed under Clause 15 of the Letters Patent

against the common order dated 26.10.2016 passed by a learned Single Judge of this Court in WP.Nos.17874 to 17880 of 2013, respectively.

Writ petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified mandamus calling for the records in connection with the proceedings viz., letter NO.022944/109/ G64/ G642/ 2013-7 dated 21.2.2013 issued by the 1st respondent and quash the same and direct the respondents to accord the employment assistance to the member of the family nominated by the petitioner in accordance with B.P.Per (FB) No.3, Administrative Branch, dated 25.1.1990.

For Appellants : Mr.K.Venkataramani, AAG assisted by
in all WA's Mrs.R.Varalakshmi

For R2 : Mr.P.S.Sivashanmuga Sundaram, SGP
in all WA's

COMMON JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader takes notice for the second respondent. In view of the judgment that is going to be passed herein, notice to the first respondents is dispensed with.

2.By consent, all these writ appeals are taken up for final disposal at the time of admission itself.

3.Since the issue involved in all these writ appeals is similar, they are being disposed of, by a common judgment.

4.All these writ appeals are directed against the common order passed by the learned Single Judge in WP.Nos. 17874 to 17880 of 2013. The Tamil Nadu Electricity Board and its authorities, who are the respondents 1 to 3 in the aforesaid writ petitions, are the appellants herein. The writ petitioners are the first respondents in the respective writ appeals. The District Collector, Thiruvallore District/ fourth respondent in the writ petitions, is the second respondent herein.

5.In the aforesaid writ petitions, the subject matter of challenge was, illegal and mala fide action of the appellants in not giving appointment to the first respondents by extending the benefit of rehabilitation of recruitment to them in accordance

with G.O.Ms.No.656, Labour and Employment Department, Dated 29.06.1978.

6. In the year 1992, the appellants have initiated the land acquisition proceedings for construction of North Chennai Thermal Power Station, owing to which, the lands owned by the respective families of the first respondents were acquired. As a result of such acquisition, the families of the first respondents who had hitherto been farming, were rendered jobless, as the acquired lands were the sources of their livelihood. According to the first respondents, the Government had issued G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978 by virtue of which, all the State Public Sector Undertakings have offered to provide employment to atleast one person of the family displaced on account of acquisition of the land. Adopting the said Government Order, the appellant 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, applicable for the purpose of providing employment opportunity to one member of the displaced families in their department. When the first respondents have requested for job assistance, by order dated 21.02.2013, the appellants refused to provide employment to them on the ground that they are not entitled for such assistance, in view of the Board proceedings in B.P.No.3 dated 25.01.1990. Aggrieved by the said order, the first respondents have filed the aforesaid writ petitions.

7. By the impugned order, the learned Single Judge allowed the writ petitions, directing the appellants to provide suitable employment to the first respondents as envisaged in G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978 and as per the respondent's proceedings in B.P.Per (FB).No.3, Administrative Branch, dated 25.01.1990 and issue appointment letters to each of the first respondents herein, within a period of three months. Hence, these writ appeals by the Tamil Nadu Electricity Board and its authorities.

8. The learned Additional Advocate General appearing for the appellants contended that 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 provide 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, however, the first respondents had sought for job assistance for persons, who are not eligible for the same. The learned Additional Advocate General further contended that as per the direction issued by the Division Bench in the judgment dated 26.09.2003 made in WA.No.210 of 1999, the appellants requested the second respondent to conduct enquiry

and submit his recommendations to offer employment for displaced families, whereas, the second respondent did not submit any recommendations. Therefore, the appellants are unable to extend the benefit of employment assistance to any of the displaced families. The learned Additional Advocate General also contended that the first respondents cannot claim employment as a matter of right on the ground of such acquisition of land. But a policy was adopted by the State Government to consider the case of the land losers for employment by virtue of the rehabilitation scheme and based on such policy alone, the families of those, who are displaced by way of acquisition, will be considered.

9. Heard the learned Additional Advocate Advocate appearing for the appellants and the learned Special Government Pleader taking notice for the second respondent and also perused the relevant papers and documents produced before us.

10. There is no dispute that the lands were acquired by the appellants for construction of North Chennai Thermal Power Project and the families of the first respondents own lands and they have been displaced by the acquisition. There is also no dispute that the first respondents solely depended on the lands, which lands have been acquired and they have no other source of income. Therefore, normally either the first respondents or a member of their family in terms of the directions issued by the State Government have to be employed by the appellants and the compensation paid by the appellants cannot be a ground to deny such relief to the first respondents. The compensation amount offered to the land losers cannot be termed as adequate, when such land was their sole source of income and the same can be regarded as solatium to meet out the immediate necessities of the displaced families.

11. The grievance of the first respondents before the learned Single Judge was that though they are entitled to job assistance by way of rehabilitation scheme, as per the policy decision of the Government and the Board resolution, the appellants refused to consider their case for employment by pointing out the vague reasons.

12. This Court is of the opinion that the Government has issued an order ensuring rehabilitation by way of employment of all the uprooted family by affording them one employment for each family. The failure to provide atleast one employment to one displaced family is arbitrary. When the learned Single Judge specifically directed the appellants to provide job assistance

to the first respondents, the appellants have been keeping silent and shifting the burden on the second respondent that no recommendation was forthcoming for complying with the direction of the learned Single Judge. Mere forwarding the order of the learned Single Judge to the second respondent will not serve the purpose. The appellants should have taken all the efforts to provide one employment to each family displaced by the acquisition proceedings.

13.As stated earlier, the first respondents, whose lands have been taken away, are entitled to employment on the basis of G.O.Ms.No.656 Labour and Employment Department, dated 29.06.1978. Further, the first respondents asserted that they are suffering due to the inaction of the appellants, since the land acquired was their only source of livelihood. Inasmuch as the first respondents are claiming their right based on the said G.O., if they satisfy and are found to be eligible upon scrutiny by the officer concerned, they are entitled to employment.

14.The learned Single Judge, after analyzing all the material factors, was of the view that the intention of the Government order as well as the Board proceedings is to provide job assistance to any member of the family and rehabilitate any dependent of the family and accordingly, passed the common order, directing the appellants to provide employment to the first respondents, as envisaged in G.O.Ms.No.656 dated 29.06.1978 and as per the Board proceedings No.B.P.Per (FB) No.3, dated 25.01.1990. Such decision was taken by the learned Single Judge to ensure social security by way of employment to the families of the land losers and it need not be interfered with. However, we make it clear that such appointment can be made from one among the family member and not any stranger.

15.In such view of the matter, we cannot find fault with the order of the learned Single Judge. However, considering the difficulties expressed by the learned Additional Advocate General appearing for the appellants, reasonable time has to be given to the appellants to verify each of the persons, who have applied for the job assistance, the genuineness of the claim made, their educational qualification etc. Accordingly, this Court grants six months time to comply with the order of the learned Single Judge.

16.All the writ appeals are accordingly, disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Office of the Collectorate,
Thiruthani Main Road,
Thiruvallore District,
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- 2.The Chairman,
Tamil Nadu Electricity Board
NPKKR Maligai, Anna Salai, Chennai - 600 002.
- 3.The Managing Director,
The Tamil Nadu Generation and Distribution Corporation
NPKKR Maaligai, Anna Salai, Chennai - 600 002.
- 4.The Chief Engineer,
North Madras Thermal Power Project,
North Chennai, Chennai - 600 057.

+1cc to Government Pleader SR.No.89954

W.A.Nos.1693 to 1699 of 2017

VD(CO)
GN(23/02/2018)

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