

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2017

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THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.25743 of 2017
and
W.M.P.No.27167 of 2017

1. Union of India, rep.by
The Administrative Officer-III,
Department of Atomic Energy,
General Services Organization,
Kalpakkam, Kancheepuram District
Tamil Nadu-603 102.
2. Union of India, rep.by
The Director,
Indhira Gandhi Centre for Atomic Research,
Kancheepuram-603 102. Petitioners

-Vs-

1. R.Nagesh
2. The District Collector,
Kancheepuram,
Kancheepuram District.
3. The Special Tahsildar (LA),
Atomic Power Station,
Kalpakkam,
Kancheepuram District.
4. The Central Administrative Tribunal,
rep.by its Registrar,
Madras Bench,
Chennai-600 104. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records of the fourth respondent and quash the order dated 29.07.2016 in O.A.No.310/ 00881/2016, as the same is unsustainable.

For Petitioners :: Mr.V.P.Sengottuvel

For Respondents :: Mr.P.Prathapkumar,
Additional Government Pleader
for R2 and R3
R4 Court

ORDER

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

This writ petition has been filed to quash the order dated 29.07.2016 in O.A.No.310/00881/2016 passed by the Central Administrative Tribunal, the fourth respondent herein, wherein the petitioners were directed to consider the candidature of the first respondent herein for employment under the land losers category, as expeditiously as possible preferably within a period of four months from the date of receipt of the order.

2.The first respondent happened to be the member of a Land Loser's family. The petitioner-authority acquired the land of the first respondent's family in 1994 to construct Atomic Energy Centre at Kalpakkam. At the time of acquiring the land, the first respondent was promised that a job would be provided to him under the petitioner-organization, under the land losers category. But it was not provided to him, even though such employment was provided to other members of the land losers' families. The first respondent was making applications seeking employment under the land losers category right from 1994. By order dated 22.02.2016, the candidature of the first respondent for employment was not considered positively, and the first respondent was advised that he has to make an application against the vacancies if advertised by the organization, subject to fulfilment of eligibility criteria as mentioned in the advertisement. Challenging the said order, an application was filed by the first respondent herein before the fourth respondent Tribunal. The Tribunal, by order dated 29.07.2016 passed the impugned order directing the petitioner-organization to consider the candidature of the first respondent herein for employment under the land losers category, as expeditiously as possible preferably within a period of four months from the date of receipt of the order.

3.Challenging the said order of the Tribunal, the present writ petition has been filed by the petitioners.

4.The learned counsel for the petitioners has submitted that an advertisement was made by the petitioners on 13.03.2003 inviting applications for several posts in the General Services Organization, Department of Atomic Energy, Kalpakkam and the

first respondent submitted his application for the post of Mali/A, which is under category-1 of the advertisement. As per the said advertisement, the person to be selected should have a literacy level between III and VIII Standards. While making application, the first respondent declared that he passed V Standard, but the fact remained that he failed in V Standard. The first respondent also submitted his attestation form for detailed verification on 08.08.2005 and in that form also it was stated that he passed V Standard, when actually it has not been so. Stating that the said act amounts to false and wrong declaration on the part of the first respondent, the organization, vide letter dated 12.02.2015 advised the first respondent to make application against the vacancies that would be advertised by them, subject to fulfilment of eligibility criteria. He also submitted that the scheme for giving priority in appointment to the land loser category is only in the nature of concession to the eligible candidates which they cannot claim as a matter of right, having already received compensation amount for the land acquired. Stating so, the learned counsel for the petitioners prayed for quashing the impugned order passed by the Tribunal.

5.Mr.P.Prathapkumar, learned Additional Government Pleader, took notice for the respondents 2 and 3 and made his submissions on the same lines, as contended by the learned counsel for the petitioners.

6.Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader appearing for the respondents 2 and 3 and perused the materials available on record.

7.At the time of acquiring the land belonging to the first respondent's family, the petitioner-organization promised that the first respondent would be provided a job under the land loser category. During 1994, the first respondent filed an application for employment under the said category. At that time, he was not given employment. Even though jobs were provided to similarly placed persons, the same was denied to the first respondent. The first respondent's applications were not considered positively, rather he was advised to make an application against the vacancies if advertised by the organization, subject to fulfilment of eligibility criteria as mentioned in the Advertisement. The stand of the first respondent/applicant is that it is the duty of the petitioner-organization to provide employment to him taking note of his educational qualification. But the first respondent was made to run from pillar to post and put to grave inconvenience and immense hardship. Taking note of the fact that since 1994 the first respondent was not given employment and that he was made to run from pillar to post, the Tribunal directed the authority

to consider the case of the first respondent / applicant as expeditiously as possible. It was also observed in the order passed by the Tribunal that one Chinnaponnu of Pudupalayam, who passed only III Standard, was given employment under the land losers category.

8.The land of the first respondent's family was acquired by the petitioner-organization for constructing the Atomic Energy Centre at Kalpakkam, which is purely for public purpose. Having acquired the land of the first respondent's family, the organization should protect his family as he is the land loser. According to Article 21 of the Constitution of India, no person shall be deprived of his life or personal liberty except according to procedure established by law. It would not be correct to direct the family of the downtrodden to wait for an opportunity to file an application seeking employment. Whenever a scheme is floated and when the vacancies are available, without relying upon technicalities the authority has to consider the case of the land losers. Moreover, the scheme was framed way back in the year 1994 and now about 2½ decades have elapsed. Hence further delay in extending employment to the first respondent would be abuse of process of law. The attitude of the petitioner-organization in not providing employment to the first respondent, relying on technicalities, is highly deprecated.

9.With the above observations, the impugned order passed by the fourth respondent-Tribunal is confirmed and the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

KM

To

- 1.The District Collector,
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Kancheepuram District.
- 2.The Special Tahsildar (LA),
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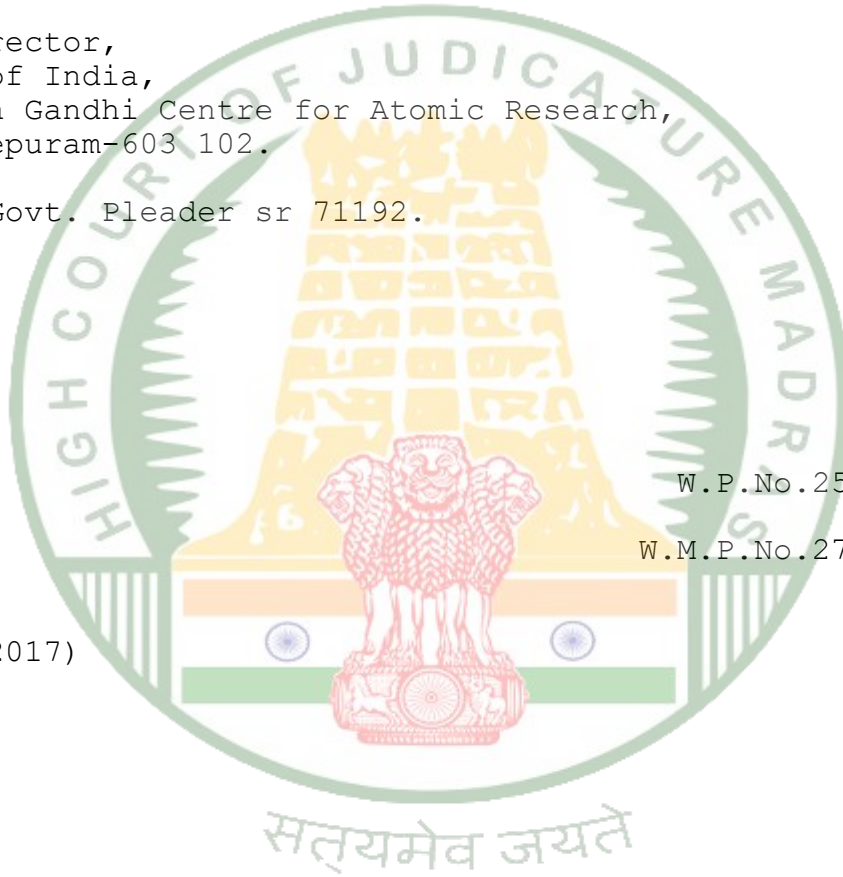
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RV(CO)
SP(01/11/2017)



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