

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.18585 of 2012 and
W.M.P.No.1 of 2012

K.Nandakumar

... Petitioner

Vs.

- 1.The Executive Director,
Bharat Heavy Electricals Limited, (BAP)
Ranipet-6, Vellore District.
- 2.The Convener and District Revenue Officer,
Collector Office, Vellore-9, Vellore District.
- 3.The Tahsildar,
Walajah, Vellore District.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings Rc.G3/42197/2011, dated 09.12.2011 and Na.Ka.No.G3/26505/2008, dated 26.06.2012, quash the same and direct the respondents to appoint the petitioner in any one of the suitable categories according to his qualification or in any other clerical post.

For Petitioner :Mr.P.Ganesan for C.S. Associates

For Respondents:Mr.John Lachan for

M/s.Fox Mandal & Associates, for R1

:Mr.R.A.S.Senthilvel,

Addl. Government Pleader for RR2 & 3

O R D E R

Heard Mr.P.Ganesan, learned counsel for the petitioner and Mr.John Lachan, learned counsel appearing for the first respondent and Mr.R.A.S.Senthilvel, learned Additional Government Pleader, appearing for the second and third respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings Rc.G3/42197/2011, dated 09.12.2011 and Na.Ka.No.G3/26505/2008, dated 26.06.2012, quash the same and direct the respondents to appoint the petitioner in any one of the suitable categories according to his qualification or in any other clerical post."

3. The case of the petitioner is as follows:

The land of the petitioner's father ad measuring an extent of 17 cents in Survey No.131/16, Mukundaraypuram Village, Vellore District, was subjected to acquisition by the Government for installation of Bharat Heavy Electricals Limited (BHEL) in 1981. When the land was subjected for acquisition for the purpose of location of BHEL, the land losers were assured of employment for each one of them. At that time, when the lands were acquired, the petitioner was a minor. However, it was assured that his claim will be considered after his attaining majority.

4. According to the petitioner, he has passed plus 2 and obtained Diploma in Mechanical Engineering in the year 1994. After he acquired qualification, he approached the authority concerned for considering him for the appointment as one of the family members of the land losers. However, as the same was rejected, the petitioner was constrained to file a petition in W.P.No.11034 of 2006. The similar writ petitions were also filed and this Court has passed an order on 13.05.2008, with a direction to constitute a screening committee to scrutinize each one of the claimants for the purpose of their employment process.

5. In pursuance of the direction of this Court, the screening committee was constituted. The petitioner has appeared before the committee on 25.07.2008. Since nothing was forth coming, the petitioner has once again appeared before the screening committee on 16.11.2011. Before the committee, the petitioner submitted all the required certificates and documents. However, without saying any reasons, the committee rejected the claim of the petitioner vide order dated 09.12.2011, which proceedings are challenged in the present writ petition.

6. On verification, the petitioner came to know that his claim for the employment opportunity was rejected only on the ground that his mother came to be employed and therefore, the family cannot claim for employment for two persons. The case of the petitioner is that as far as his mother is concerned, a

separate property inherited by her, has been subjected to acquisition and therefore, the employment of his mother cannot be put against him for denying his employment.

7. As far as the petitioner is concerned, being the son of land loser, namely his father, he was also entitled for the benefit of employment as per G.O.Ms.No.87, Industries Department, dated 27.01.1981. When the review was sought in respect of the order dated 09.12.2011, the same was also rejected on 26.06.2012. In the said circumstances, the petitioner is before this Court, seeking a direction for appointment in any one of the suitable post that commensurates his qualification.

8. Upon notice, the learned Additional Government Pleader, entered appearance and he would submit that there is no provision for offering employment to two members of the same family whose lands were subjected to acquisition. The learned counsel for the respondents vehemently opposed the grant of any relief to the petitioner on the ground that at this distant of time, no employment could be offered to the petitioner, particularly, in view of the fact that his mother was employed as early as on 1994, she attained the age of superannuation and retired in the year 2012. In view of the same, the present claim of the petitioner cannot be entertained.

9. The learned counsel appearing for the petitioner has drawn the attention of this Court to the order passed by the Hon'ble Division Bench of this Court dated 14.03.2014, in W.A.No.840 of 2013, wherein, the similar issue came up for consideration. This Court accepting the contention of the respondents held that the second member of the family cannot be given employment. However, in the final paragraph of the order of the Hon'ble Division Bench, the management was directed to consider the claim of the petitioner, in case of any future regular vacancy. The learned counsel would further submit that a similar observation may be made, which would enable the petitioner to seek employment, in case the same is considered favourably by the respondent in future.

10. After taking note of rival submissions of the parties and also the pleadings, it was observed by the Hon'ble Division Bench of this Court in paragraph 6 as extracted below:

"After the dismissal of the writ petition, the learned senior counsel for the appellant would submit that the appellant herein has undergone National Trade Certificate Course (ITI) - two years Course and has also passed Tamil and English Higher Grade Typewriting and therefore, his claim may be considered in any future regular vacancy. In response to the said submission, the learned counsel

for the second respondent would submit that if the appellant satisfies educational qualification, age and other criteria, his claim will be considered for regular employment. It is open to the second respondent to consider the claim of the appellant if he is otherwise eligible for employment."

11. In the light of the above observation, there shall be a direction to the respondents to consider the claim of the petitioner in any future vacancy and accommodate in any suitable post in accordance with his present qualification, if the petitioner is otherwise qualified in all respects.

12. With the above observations, the writ petition is disposed of. It is needless to mention that this observation is made considering the facts and circumstances of this case and it cannot be considered as a precedent to any other case. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

- 1.The Executive Director,
Bharat Heavy Electricals Limited, (BAP)
Ranipet-6, Vellore District.
- 2.The Convener and District Revenue Officer,
Collector Office, Vellore-9,
Vellore District.
- 3.The Tahsildar,
Walajah, Vellore District.

+1 Cc to Ms. C.S. Associates, sr 55925.
+1 Cc to Ms. Fox Mandal & Associates, sr 55610.

W.P.No.18585 of 2012

RSI (CO)
sp(28/09/2017)