

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 25-10-2018

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10495 of 2013

Smt.Pushpam

.. Petitioner

..Vs..

1.The District Collector,
Vellore District,
At Vellore.

2.The Revenue Divisional Officer,
Ranipet,
Vellore District.

3.The Special Tahsildar,
Land Acquisition (BHEL) Unit-I,
Ranipet,
Vellore District.

4.The Assistant General Manager,
Bharat Heavy Electrical Ltd.,
Ranipet,
Vellore District.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to recommend the fourth respondent to appoint the petitioner's adopted son namely Thiru Naveen Jarish in preference to other land losers and subsequently direct the fourth respondent to issue appointment order to the petitioner's adopted son Thiru Naveen Jarish either as unskilled or for any other suitable post in BHEL following the policy of the Job for one family of whose lands were acquired by the Government for the benefit of BHEL.

For Petitioner : Mr.A.Rajesh Khanna

For Respondents-1to3 : Mr.R.S.Selvam,
Government Advocate.

For Respondent-4 : Mr.P.John Zacharia for
M/s.Fox Mandal Associates.

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents 1 to 3 to recommend the fourth respondent to appoint the writ petitioner's adopted son, namely Thiru Naveen Jarish in preference to other land owners and subsequently, direct the fourth respondent to issue appointment order to the writ petitioner's adopted son in BHEL.

2. The writ petitioner claims that she possessed and enjoyed a tiny piece of land situated at S.No.277/6 to an extent of 0.15 cents and S.No.278/4 to an extent of 0.17 cents at Seekarajapuram Village, Wallajah Taluk, Vellore District.

3. The learned counsel for the writ petitioner made a submission that the said land was acquired by the writ petitioner under Land Acquisition Proceedings for establishing "Boiler Auxiliaries Project" by the BHEL. An assurance was provided that the landlosers will be given an opportunity of employment in the BHEL. The writ petitioner filed the present writ petition on the ground that she had submitted an application, seeking appointment to her adopted son, namely Thiru Naveen Jarish. However, the said application has not been considered by the respondents. Thus, the writ petitioner is constrained to move the present writ petition.

4. The very same issue in relation to the providing an opportunity of employment to the landlosers in the BHEL was decided by this Court in WP No.7700 of 2014 dated 21.6.2018. But, in the present case on hand also the writ petitioner had not submitted an application within the time limit provided by the Screening Committee. The relevant portion of the said judgment in paragraphs 4,5,7, 8 and 9 are extracted hereunder:-

"4. The learned counsel, appearing on behalf of the third respondent, made a submission that a batch of writ petitions were filed in W.P.No.4113 of 1998 etc., and this Court passed an order on 13.5.2008, which reads as under:-

"43. Therefore, this Court hereby orders appointment of a Screening Committee comprising of the following persons:-

1. The District Revenue Officer
(North Arcot District) - Convener
2. The Revenue Divisional Officer,
Ranipet
3. The Tahsildar, Wallajah -
Secretary
4. The Additional General Manager

(HR&C), BHEL, Ranipet

5. The Deputy General Manager (Law),
BHEL, Ranipet

6. The Manager (HR), BHEL, Ranipet

The meetings of the Screening Committee shall be convened by the District Revenue Officer and its Secretary will be the Tahsildar, Wallajah. If any difference of opinion crops up or any clarification is required, the same may be referred to the District Collector, North Arcot District for his consideration and opinion and be resolved accordingly.

44. The District Collector (North Arcot) is hereby directed to notify the constitution of the Screening Committee and also give adequate publicity to the land losers to appear before the Committee with necessary records. The Committee shall examine the claims of all the writ petitioners (excepting those cases which have been rejected by this Court) within a period of three months from the date of receipt of a copy of this order and to recommend to BHEL for grant of suitable appointments to the eligible land losers. Till the said exercise is completed, the respondent BHEL cannot proceed with any other appointment to the categories which the land losers are eligible. In case where some of the land oustees are not able to be given employment, the respondent BHEL shall also direct the contractors engaged by them, to employ those persons as was done by the directions approved in the Banwasi Seva Ashram's case (cited supra).

45. In the result,

(a) The following writ petitions W.P. No. 27817 of 2005; and W.P. Nos. 10955, 11035, 11037, 11044, 11046, 11049, 11056, 11732, 27837, 27838 and 41184 of 2006 will stand dismissed.

(b) The following writ petitions which are of general nature will stand closed in the light of the directions already granted by this Court:-

W.P. Nos. 34838 and 41392 of 2005;
and W.P. No. 27920 of 2007.

(c) All the other writ petitions listed below :

W.P. No. 4113 of 1998;
W.P. No. 19761 of 1999;
W.P. Nos. 25971 and 41541 of 2005;
W.P. Nos. 524 to 527, 725, 7560,
10951 to 10954, 10956 to 10963, 11031 to
11034, 11036, 11038 to 11043, 11045,
11047, 11048, 11050 to 11055, 19765,
26133, 26134, 27829 to 27836, 41121,
42147, 42148, 43708, 46929, 47876 of
2006; and W.P. Nos. 4319, 28208 and 28209
of 2007 will stand disposed of in the
light of the directions granted above.
However, the parties are allowed to bear
their own costs. All connected
Miscellaneous Petitions will stand
closed."

5. The Writ Appeal filed against
this order was also dismissed by the
Hon'ble Division Bench of this Court.
Pursuant to the orders of this Court, the
last date for submitting the
applications, seeking employment was
fixed as 23.9.2011. All the eligible land
losers are permitted to submit their
respective applications, seeking
employment on or before 23.9.2011. The
applications submitted were scrutinised
by the Screening Committee and 124
candidates were appointed in the third
respondent-Corporation. The Screening
Committee appointed for the purpose of
recommending the cases were also
dissolved. Thus, the process of
appointments in respect of these land
losers ended in the year 2011 itself.

7. Once the terms and conditions and
the cut off date for submission of
application is prescribed, then the
authorities competent are bound by the
same and the applications submitted
thereafter, cannot be entertained at all.
The writ petition itself was filed in the
year 2014, after a lapse of three years
from the date of completion of the
process of appointment in respect of land
losers category. Thus, the question of
extending any leniency or otherwise in
the case of the writ petitioners, does
not arise at all.

8. The third respondent-Corporation
is a State. Thus, all appointments are to

be made only in accordance with the Recruitment Rules in force. Equal opportunity in public employment is the constitutional mandate and all the eligible persons aspiring for public employments must be given opportunity to participate in the selection through open competition process.

9. Thus, the Special Schemes provided for appointments are to be restricted to the extent possible. Since such Special Schemes are curtailing the opportunities to all the eligible persons as enshrined under Articles 14 and 16 of the Constitution of India. The State or Union, cannot issue number of Special Schemes, so as to appoint the persons without following the Recruitment Rules in force and equal opportunity enshrined under the Constitution must be followed in its letter and spirit and scrupulously by the authorities competent."

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The District Collector,
Vellore District,
At Vellore.

2.The Revenue Divisional Officer,
Ranipet,
Vellore District.

3.The Special Tahsildar,
Land Acquisition (BHEL) Unit-I,
Ranipet,
Vellore District.

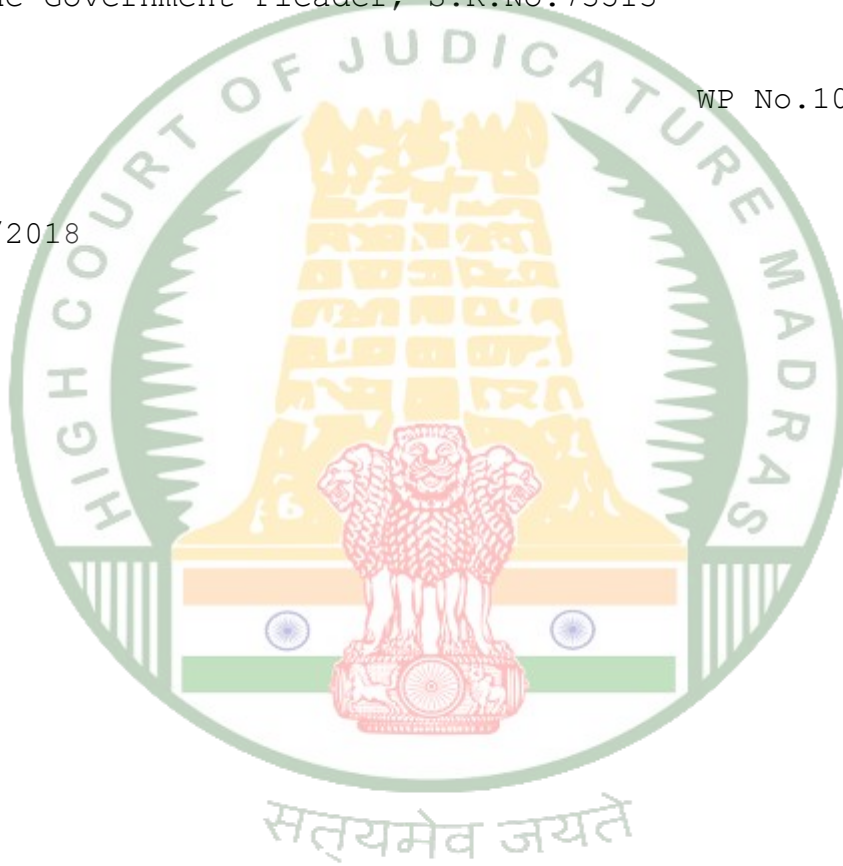
4.The Assistant General Manager,
Bharat Heavy Electrical Ltd.,
Ranipet,
Vellore District.

+lcc to M/s.Fox Mandal Associates, Advocate, S.R.No.73202
+lcc to the Government Pleader, S.R.No.73513

WP No.10495 of 2013

NRL(CO)

rrs 12/11/2018



WEB COPY