

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.58 of 2018 and
C.M.P.No.384 of 2018

- 1.The Tamil Nadu Generation and Distribution Corporation Limited,
rep.by its Chairman cum Managing Director,
Secretariat Branch, N.P.K.K.R.Maligai,
144, Anna Salai, Chennai-600 002.
- 2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Limited,
Secretariat Branch, N.P.K.K.R.Maligai,
144, Anna Salai, Chennai-600 002.
3. The Chief Engineer
Mettur Thermal Power Project
Salem District.

... Appellants/Respondents 1 to 3

-vs-

- 1.R.Karthikeyan
- 2.S.Soundararajan
- 3.R.Babu
- 4.R.Praveenkumar
- 5.G.Nithyanandhi

- 6.The District Collector,
Salem District, Salem.

सत्यमेव जयते ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against
the order passed by this Court in W.P.No.33395 of 2013 dated
26.10.2016.

W.P. 33395/2013:

Writ Petition filed under Article 226 of the constitution of
India praying to issue a Writ of Mandamus to direct the
respondents 1 to 3 to extend Job assistance rehabilitation to
the petitioners taking into consideration their qualification.

For Appellants :: Mr.Manishankar,
Addl.Advocate General
assisted by
Mr.Anandha Gopalan for
M/s.T.S.Gopalan & Co.

For Respondents:: Mr.V.Prakash, Sr.Counsel for
Mr.M.Suresh for R1 to R5

Mr.P.S.Sivashanmugasundaram,
Spl.GP for R6

JUDGMENT

(Made by HULUVADI G.RAMESH, J.)

It is the case of the respondents 1 to 5 herein that the appellants and the sixth respondent herein had acquired the lands and dwelling houses belonging to the respondents 1 to 5 under the Land Acquisition Proceedings in 1992 and an award was passed on 26.08.2002. A proceedings dated 26.09.1986 had also been issued by the appellant-Board whereby the Chief Engineer / Mettur Thermal Power Project had undertaken to give job assistance to one member in each of the families displaced on account of acquisition of lands by the board in the Lower Ash Dumping Area in Mettur Thermal Power Project, irrespective of the fact whether any other member in the displaced family is employed already or not, as a special case. Similarly placed persons like that of the respondents 1 to 5 herein have filed a writ petition before this Court in W.P.No.25117 of 2012 and the same was disposed of on 12.07.2013 directing the petitioners therein to submit their applications before the Revenue Divisional Officer for getting certificates that they are affected by the Land Acquisition Proceedings and the Electricity Board was directed to consider their claim under the Rehabilitation Scheme on production of the said certificates and to pass appropriate orders. It was also ordered that if such a certificate is produced, there is no need to give Undertaking Affidavits. The respondents 1 to 5 had complied with the said requirement, but since there was no response, they filed a writ petition before this Court in W.P.No.33395 of 2013 praying to direct the appellant-Board to extend job assistance rehabilitation to them and to appoint them in the suitable posts, according to their qualifications.

2.It was argued on behalf of the Electricity Board before the writ Court that the respondents 1, 2, 4 and 5 herein were employed in TANGEDCO and the third respondent's father was employed in a private company in Mettur and hence it cannot be stated that their livelihood was affected by virtue of the acquisition of lands. It was further submitted that the respondents 1 to 5 have received compensation and they were also

provided with alternative house sites and hence, they have not been affected by the acquisition proceedings.

3.Considering the facts and circumstances of the case, the learned single Judge allowed the writ petition directing the first appellant herein to provide suitable posts to the respondents 1 to 5, taking into consideration their qualifications, by order dated 26.10.2018.

4.Challenging the order passed by the learned single Judge, the present writ appeal has been filed.

5.The learned Addl.Advocate General appearing for the appellant-Board has submitted that the learned single Judge has erred in applying the dictum laid down in the order made in W.P.No.11623 of 1999 dated 18.11.2008 in a manner that was out of context and not germane to the present facts. He further submitted that the predominant income for the families of respondents 1 to 5 do not accrue from the land that was acquired by the appellants. Further, the option of employment assistance could be extended to families, as agreed to by the representatives of Pudhureddiyur and Pudhuchinnakkavoor villages on 24.08.2002, only in the event of the members of such affected families have no other means of employment. In the case on hand, the father of respondents 1, 2, 4 and 5 have been employed by the first appellant and the father of the third respondent has been employed in a private company. In these circumstances, the respondents 1 to 5 are not entitled for any relief in respect of employment assistance. It is also submitted that granting employment would amount to three benefits, ie., compensation, alternate land and employment, whereas even to agriculturists, only two benefits, ie., compensation and employment are given.

6.The learned senior counsel appearing for respondents 1 to 5, reiterating the submissions that were made by him before the learned single Judge, has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order, which does not require any interference in the hands of this Court.

7.Heard the learned counsel on either side and perused the materials available on record.

8.On a perusal of the Board Proceedings in P.B.Ms(FB)No.87 (Administrative Branch) dated 26.09.1986, it is seen that the Chief Engineer / Mettur Thermal Power Project had undertaken to give job assistance to one member in each of the families displaced on account of acquisition of lands by the Board in the Lower Ash Dumping Area in Mettur Thermal Power Project, irrespective of the fact whether any other member in the

displaced family is employed already or not, as a special case. But the Minutes of the Meeting which was held in the Chairman's Chamber on 24.08.2002, enclosed in Page-3 of the typed set of papers filed by the appellants, relates to the lands for Upper Ash Dyke works. Further, we also find from the discussions made in the said Minutes of Meeting, that though it is not provided in the Government Order as to the persons other than agricultural land owners, as a special case, subject to approval from the Board, recommendations will be made to the Government for giving employment to those who have passed VIII Standard and completed 18 years of age. It was also discussed that the employment will be considered for the legal heir of the affected family, provided there is no other member employed in that family; that it will be restricted to one person per family in addition to provision of alternative site and eligible compensation for the lands to be acquired.

9. The learned Additional Advocate General appearing for the appellants / Board has produced a chart from which we are able to find that the second and fourth respondents are working in Tamil Nadu Electricity Board from 04.03.2004 and 17.12.1986 respectively. Further, the first and fifth respondents have been working in Tamil Nadu Electricity Board from 22.11.1989 and 27.11.1989 respectively, and got retired in the years 2017 and 2013 respectively and they are receiving pension now. Thus, the question of offering employment in respect of respondents 1, 2, 4 and 5 does not arise. In respect of the third respondent, he was working in a Private Company, viz. Chemplast and was earning a sum of Rs.2,50,000/- per annum and he opted for voluntary retirement and got retired. The extent of land acquired from him is 500 sq.ft. It is also seen that at the relevant point of time, he was working in the company and only thereafter he got voluntary retirement. As per the Minutes of Meeting held in the Chairman's Chamber on 24.08.2002, the employment would be considered for the legal heir of the affected family, provided there is no other member employed in that family. That criteria has not been met with by the third respondent. Further, it is seen that every one has been given a minimum of 1300 sq.ft. of land irrespective of the acquired land area.

10. Thus, the third respondent was given compensation and alternative land, for the acquisition of his land. Even though a small piece of land, ie., comprising 500 sq.ft, has been acquired, the third respondent has been given a much bigger alternative area, irrespective of the fact that the land acquired is not an agricultural land. At the relevant point of time, he was employed in a private employment and only subsequently he got retired voluntarily. Further the criteria for getting employment has not been met with by the third respondent. Apart from all these things, as already stated, the land acquisition in respect of the respondents 1 to 5 herein

were made only for Upper Ash Dyke works, and it is not for Lower Ash Dumping Area, and the fact remains that only for acquisition of lands for Lower Ash Dumping Area, proceedings dated 26.09.1986 had been issued by the appellant-Board whereby the Chief Engineer / Mettur Thermal Power Project had undertaken to give job assistance to one member in each of the families displaced on account of acquisition of lands by the board, irrespective of the fact whether any other member in the displaced family is employed already or not, as a special case.

11. When this is the factual scenario, the learned single Judge has passed the impugned order granting the relief as prayed for by the respondents 1 to 5, relying upon the Board Proceedings in B.P.Ms.(FB)No.87 (Administrative Branch) dated 26.09.1986. Hence, the impugned order passed by the learned single Judge is set aside and the writ appeal is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

KM
To

1. The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Limited,
Secretariat Branch, N.P.K.K.R.Maligai,
144, Anna Salai, Chennai-600 002.
2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Limited,
Secretariat Branch, N.P.K.K.R.Maligai,
144, Anna Salai, Chennai-600 002.

+1 CC to Mr.T.S. Gopalan & Co, sr 58093.
+1 CC to Mr.K. Sudalaikannu, Advocate sr 58173.

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PVS (CO)
SP(27/09/2018)