

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.6118 of 2011 and
M.P.No.1 of 2011

Sugumar

... Petitioner

Vs

1. The Chairman,
Tamil Nadu Cement Corporation Ltd.,
735, Anna Salai, Chennai 600 002.
2. The Managing Director,
Tamil Nadu Cement Corporation Ltd.,
735, Anna Salai, Chennai 600 002.
3. The General Manager,
Tamil Nadu Cement Corporation Ltd.,
Ariyalur Cement Factory,
Pin - 621 729.
4. The Deputy General Manager,
Tamil Nadu Cement Corporation Ltd.,
Ariyalur Cement Factory,
Pin - 621 729.

... Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the fourth respondent dated 08.10.2010 and quash the same and consequently, direct the respondents to appoint the petitioner in any suitable post.

For Petitioner : Mr.T.Sellapandian for
Mr.G.Anantharangan

For Respondents : Mr.A.Shivaji

O R D E R

The present writ petition has been filed against the order passed by the fourth respondent dated 08.10.2010 and consequently, direct the respondents to appoint the petitioner in any suitable post.

2. The petitioner's father was holding 43 cents of land at Kurumanchavadi Village, which was acquired by the Tamil Nadu Government for establishing the Ariyalur Cement Factory. The acquisition took place on 05.03.1979. In terms of the instructions issued at that point of time, an employment opportunity was provided to the family member of the land acquired. For which purpose, a committee was constituted.

3. The petitioner's father appeared before the committee on 03.10.1979, seeking employment opportunity. But, however, his request was denied on the ground that such employment would be considered only for the persons who have surrendered above 75% of the land. Since the petitioner's father had only 32% of the land, he found to be not eligible for the employment. However, he was asked to re-appear on 31.10.1979. Despite several representations on his side, ultimately he was not considered for employment.

4. The petitioner who was not even born at that point of time, has started renewing his request after he came to know that subsequently three persons who had given a small extent of land towards acquisition as that of the petitioner's father, were considered for employment. According to the petitioner, he was an adopted son of his father. Therefore, he was entitled to be considered for appointment. In this regard, several representations have been submitted by his father and himself and ultimately, the respondent passed an order on 08.10.2010, rejecting the request of the petitioner and which rejection is impugned in the present writ petition.

5. According to the learned counsel for the respondents, even much earlier to 2010, several of the representations filed on behalf of the petitioner, had been considered and rejected repeatedly and despite the same, representations being addressed to the respondents frequently.

6. In response to the writ petition, a detailed counter affidavit has been filed stating that the petitioner herein was

an adopted son, for which, no proof has been filed before the respondents in support of the adoption. In fact, the respondents are not aware of the status of the petitioner vis-a-vis the original claimant. In such event, his claim cannot be considered by granting him any employment. Even otherwise, it is stated in the counter affidavit that such employment opportunity cannot be kept open for indefinite period, since the acquisition was in relation to the year 1979 and forty years have gone by.

7. The instances cited by the petitioner were considered during the relevant point of time and such consideration cannot be undertaken today after so many years. Further, the petitioner was not even born when the acquisition took place in 1979 and it is too late in making claim for employment.

8. This Court has considered the submissions made on behalf of the parties. As rightly contended by the learned counsel for the respondents that the claim of the petitioner is extremely stale and belated and such claim cannot be entertained at this distance of time. Admittedly, the acquisition took place in 1979 and the petitioner's father had applied for consideration which was rejected in the year 1979 itself. Once the claim was rejected by the duly constituted committee, the question of re-opening such claim after a period of forty years would not arise at all.

9. Moreover, it is averred in the counter affidavit filed on behalf of the respondents that no documents or material appeared to have been produced in support of the adoption of the petitioner by his father. In the absence of such material, the loco standi of the petitioner for claiming the benefit of employment, becomes questionable. Even otherwise, this Court has to see whether such claim can be considered after a period of four decades. The answer would be no. The concept of providing employment opportunity is to grant immediate assistance to the family who was deprived of their valuable land, resulting in loss of livelihood and such concept cannot be stretched and cannot be made available for endless period of time.

10. As rightly contended by the learned counsel for the respondents that the petitioner was not even born at the time of the acquisition and therefore, even assuming that he was a legally adopted son of his father, his claim cannot be considered under any circumstances. Even the equity cannot be pressed in his favour in such hopeless time barred claims.

11. For the above said reasons, this Court finds no merit in the writ petition and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsk

To

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+1cc to Mr.A.Shivaji, Advocate, S.R.No.21396

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W.P.No.6118 of 2011

SAI (CO)
CS/06/05/2019

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