

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.04.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14945 of 2018

R.D.Ganesan

..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 General Manager,
Bharat Heavy Electrical Limited,
Ranipet, Vellore District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to recommend the 4th respondent to appoint the petitioner's son namely Thiru.G.Bharanidharan in preference to other land losers and subsequently direct the 4th respondent to issue appointment order to the petitioners son Thiru.G.Bharanidharan either as unskilled or for any other suitable post in BHEL following the policy of one job for one family of whose lands were acquired by the Government for the benefit of BHEL pursuant to the proceedings in Na.Ka.A3/2037/08 dated 20.03.2008 passed by the 2nd respondent.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.R.S.Selvam
Government Advocate for R1 to R3

Mr.John Zachariah
For M/s.Fox Mandal Associates for R4

O R D E R

The relief sought for in the present writ petition is for a direction to direct respondents 1 to 3 to recommend the 4th respondent to appoint the petitioner's son namely Thiru.G.Bharanidharan in preference to other land losers and subsequently direct the 4th respondent to issue appointment order to the petitioners son Thiru.G.Bharanidharan either as unskilled or for any other suitable post in BHEL following the policy of one job for one family of whose lands were acquired by the Government for the benefit of BHEL pursuant to the proceedings in Na.Ka.A3/2037/08 dated 20.03.2008 passed by the 2nd respondent.

2. Admittedly, the land belonged to the writ petitioner was acquired during the year 1983.

3. The learned counsel for the writ petitioner states that the writ petitioner made a representation on earlier occasions seeking appointment. However, the said application was not considered. The writ petitioner is now aged about 60 years and therefore, he seeks appointment to his son, who is eligible for such appointment in the BHEL organization.

4. The fact remains that the land acquisition occurred during the year 1983 and the writ petitioner is now aged about 60 years and over aged. The scheme introduced for providing a job to the land losers category cannot be extended after a lapse of so many years, more specifically, about 36 years. This apart, the original persons from whom the lands were acquired are now over aged and therefore, they cannot seek further appointment to their son as such schemes are not meant for hereditary appointments in BHEL. The issues are already considered by this Court and the order was passed in W.P.No.7700/2014 dated 21.06.2018 and the relevant paragraphs 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.

6. Admittedly, the writ petitioners had not submitted their applications before the cut off date i.e., on 23.9.2011. The learned counsel for the writ petitioners made a submission that the writ petitioners are residing in a remote village and they were not referring the fact that the last date fixed by the respondents for submission of applications. These factors cannot be considered, at this point of time, in view of the fact if any leniency or misplaced sympathy is shown in respect of the cut off date fixed for the purpose of submission of applications, then there will be large number of claims in this regard by the other land losers, who are all eligible and aspiring to secure employment.

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.

10. This being the principles to be followed, this Court is of an opinion that the cut off date fixed by the respondents for submission of application was on 23.9.2011 and admittedly, the writ petitioners had not submitted their applications before the cut off date and there is no reason for this Court to interfere, at this point of time, for the purpose of granting the relief, as such, sought for in this writ petition.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

5. In view of the judgment cited supra, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

To

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

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

+1 cc to M/s.A.Rajesh Kanna, Advocate, S.R.No.42670

+1 cc to the Government Pleader, S.R.No.43235

W.P.No.14945 of 2018

SKV(CO)
SSM(25/06/2019)



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