



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.15433 of 2013

Kumaran

... Petitioner

vs.

The District Employment Officer
Virudhunagar District
Virudhunagar

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned rejection letter sent by the respondent in his proceeding $\text{MD}/\text{A}5/4962/2013$ dated 21.08.2013 and quash the same as illegal and consequentially to direct the respondent to register the petitioner's name in the rolls of priority list maintained by them for the employment seniority within the period stipulated by this Court.

For Petitioner : Mr.R.Gandhi

For Respondent : Mr.M.Jeyakumar

Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to quash the order of rejection issued by the respondent in proceedings, dated 21.08.2013, rejecting the claim of the writ petitioner for providing appointment under the land losers category.

2. Admittedly, the writ petitioner is a native of Kunnoor Village. The grandmother of the writ petitioner Smt.S.Gandhiammal and the ancestors of the writ petitioner were owning agricultural lands comprised in Survey No.765, measuring an extent of 36 $\frac{1}{2}$ Cents, in Kunnoor Village and the Special Tahsildar for Land Acquisition, Adhi Dravida Welfare Department, Srivilliputhur, Virudhunagar District, had acquired the said lands in proceedings D.No.1568/1973, under the Land Acquisition Act for the purpose of constructing houses under the Housing Welfare Scheme for Scheduled Caste and Scheduled Tribes community people.

3. The learned counsel appearing for the writ petitioner states that the writ petitioner has completed his B.Sc., Physical



Education and he is an unemployed. Under these circumstances, the writ petitioner submitted an application seeking employment on priority category of land looser.

4. The writ petitioner admittedly is not a Class-I legal heir of the owner from whom the land was acquired by the Adhi Dravida Welfare Department. This apart, the land acquisition proceedings were completed during the year 1973. The writ petitioner is the grandson of the original owner of the land, which was acquired by the Adhi Dravida Welfare Department for public purpose. Under these circumstances, the benefit of employment to the legal heirs of the family of the land losers cannot be interpreted, so as to provide employment opportunity to the Class-II legal heirs. The concept of family with reference to the context must be provided and a pragmatic and constructive interpretation in this regard is imminent and warranted. The Government provides priority for the legal heirs of the family. The family does not include the Class-II and Class-III legal heirs. The family for the purpose of providing such special and concessional appointments is to be restricted only to the Class-I legal heirs and in the event of contrary interpretation, the very purpose and object of providing such priority appointments will be defeated. In such an event, every member of the family will have a claim in respect of such priority category of land losers or under any other schemes. Thus, the interpretation must be constructive and in respect of availing such special schemes, like compassionate appointment, priority appointment, special appointment etc., the scope must be restricted to ensure that the scheme is implemented in its letter and spirit and to achieve the purpose for which such schemes are implemented.

5. It is not as if one appointment is to be provided to the legal heirs of the land looser. The very purpose and object of the scheme is to ensure that if the family suffered on account of such land acquisition proceedings, then an appointment is to be provided. In the present case on hand, the land acquisition proceedings were completed during the year 1973 and now, after a lapse of 40 years, the grandson of the land looser is claiming appointment. Such a futile claim cannot be entertained at all.

6. Special schemes, like priority category, compassionate appointment, are in violation of Articles 14 and 16 of the Constitution of India. By providing such special appointments in large scale, the equal opportunity contemplated under the Constitution of India will be diluted and violated. Equal opportunity in public employment is the constitutional mandate. Thus, all appointments are to be made strictly in accordance with the rules in force and by providing equal opportunity to the eligible candidates. Lakh and lakh of young people are burning their midnight lamps for securing public employment through open competitive process. By providing such large scale special appointments, the constitutional rights of all those eligible



candidates are infringed. Thus, the authorities competent as well as the State, while introducing and implementing such special appointments, should ensure that such special appointments are restricted so as to uphold the constitutional principles and ethos.

7. In the present case on hand, the writ petitioner is the grandson of the land looser and the acquisition proceedings had been completed during the year 1973 and now, after a lapse of 40 years, the claim of the writ petitioner to provide appointment under the land losers category is undoubtedly impermissible and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To:

The District Employment Officer,
Virudhunagar District,
Virudhunagar.

+1cc to M/s.Special Government Pleader,SR.No. 68473

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