

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 721 of 2016**

1. Hira Lal S/o Shri Gokul, Aged About 25 Years R/o. Village Jarahajel, Revenue Circle Dipka, Tahsil Katghora, District Kroba Chhattisgarh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Raipur Chhattisgarh, Chhattisgarh
2. Collector, Korba Chhattisgarh, District : Korba, Chhattisgarh
3. Sub Divisional Officer Revenue, Katghora, District Korba Chhattisgarh, District : Korba, Chhattisgarh
4. South Eastern Coalfield Limited, Through The Chairman-Cum-Managing Director, South Eastern Coalfield Limited, Seepat Road, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
5. Director Personnel, South Eastern Coalfield Limited, Seepat Road, Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
6. Chief General Manager, South Eastern Coalfield Limited, Kusmunda Area, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondents

For Petitioner	: Shri Uttam Pandey, Advocate.
For State	: Shri Rahul Jha, G.A.
For SECL	: Shri Sudhir Kumar Bajpai, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06.01.2021**

1. The challenge in the present writ petition is to the impugned order Annexure P/1 dated 15/16-01-2015 whereby the claim of the petitioner for employment has been rejected. By the impugned order, the claim of the petitioner has been rejected for employment being a land oustee on the ground that the petitioner was born much subsequent to the execution proceedings and therefore he was not entitled for being considered for employment.

2. The brief facts of the case is that the petitioner's father namely Shri Gokul owned a small piece of land Khasra No. 4/2 ढ, area 0.13 acres at village Jarahajel, P.C. No. 35/20 Tahsil Katghora, District Korba.
3. The aforesaid land came under acquisition by the respondents in the year 1983 and due compensation under the acquisition proceedings were paid to the land owners as and when the acquisition proceedings were finalized. In 2013, the petitioner was for the first time moved an application to the respondents seeking employment against the land which was acquired in 1983. It is the said application was duly processed and after due consideration of the documents which were submitted by the petitioner, the respondents vide the impugned order Annexure P/1 have rejected the claim of the petitioner on the ground that since on the date of acquisition, the petitioner was not born and that hence he was not dependant to the original owner on the date of acquisition, therefore he could not have been provided employment.
4. The contention of the petitioner is that he has obtained certain information under Right to Information Act and under the said information sought it has been revealed that the respondents SECL has in-fact during the intervening period has provided employment to around 11 persons and who were also born subsequent to the acquisition proceedings and therefore on the ground of parity the petitioner's claim also could not have been rejected by the respondents.
5. The further contention of the petitioner is that the original land owner because of his ignorance and illiteracy could not avail the benefit of

employment at the time of acquisition and it is only after the son born and who on attaining the age of majority has raised the claim for employment, the respondents therefore should not be permitted to take advantage of such a situation of ignorance and illiteracy. Since it is a question of survival of the petitioner and his dependant, the respondents should have taken a more pragmatic approach while providing of employment to the petitioner.

6. Per contra, the learned counsel appearing for SECL submits that it is a case where undisputedly the acquisition took place on 27.04.1983 and all the admissible dues, payment of compensation etc., were timely given to the person or at least there is no dispute/claim to that effect. According to the learned counsel for the SECL, it is only in the year 2013 that for the first time the claim for employment has been raised by the petitioner. It was contended that since on the date of acquisition, the petitioner was not even born therefore he would not be entitled for employment in-terms of the guidelines and circular dated 22.12.1984 prevalent at the relevant point of time.
7. It is further contention of the respondent- SECL that the petitioner would not be entitled for the employment for the reason that on the date of acquisition he was not even born, therefore he could not have been brought within the ambit of a dependant from the income of the land which has been acquired by the respondents, neither was he the dependant to the original owner at the time of acquisition since he was not born and for both these grounds, he would not be entitled for the benefit.

8. Further contention of the counsel for the respondent -SECL that even under policy of (R&R) policy 1991, the petitioner would not fall within the ambit of the displaced family as it defines and envisages only those persons directly dependant upon the owner of the said property at the time of aquisition and it means all those persons who were already alive at the time of acquisition proceedings. Those who have been born much subsequent to the acquisition would not fall within the ambit of a displaced family for the purpose of grant of employment.
9. Having heard the contentions put forth by the Counsel appearing on either side the admitted factual matrix of the case reveals that the father of the petitioner owned 0.13 acres of land at village Jarahajel district Korba, the said property went in acquisition in 1983 the date of acquisition is 27.04.1983 to be precise. There was no claim for employment on the part of any of the family members all through till 2013 when for the first time, the petitioner made claim for employment. The date of birth of the petitioner is 04.10.1988 which means that the petitioner himself was born after more than five and half years from the date of actual acquisition proceedings. When the land was acquired, there was no such (R&R) policy prevailing in the company. The central Government in the year 1984 i.e. the Ministry of Energy Department of Coal had evolved a uniform guideline for employment to the land and clause three of the said guidelines (Annexure R/4-1) it provides for a provision for grant of employment but the same would be only to the direct linear dependant of the land owner.

10. Admittedly on the date, when the acquisition took place the petitioner was not born and as such he was not a direct linear dependant. The (R&R) policy of 1991 also defines the displaced family, which also clearly reflects that the benefit could be extended only to those persons who were directly dependant upon the land owner and also dependent from the income from the said property which has been acquired. Since the petitioner was not born on the said date and he also does not fall within any of the categories of persons as defined in the definition of displaced family, the petitioner has been left out from being considered for employment.
11. The petitioner has not been able to show any plausible explanation or document to show that right from 1983 onwards there has been a claim made by the petitioner or his ancestors for employment. The only document available with a pleading seeking employment is that of the year 2013 i.e. about 30 years after the acquisition proceedings. Nowhere has the petitioner pleaded in his writ petition that at the time of acquisition there was a claim made by the ancestors of the petitioner seeking employment and which was under active consideration and which has subsequently been substituted by the present petitioner, neither does the pleading to the writ petition show that the claim for employment against the land being acquired could be kept alive for a considerable period of time and could be claimed by even those persons who are born to the land owner at a later stage.
12. Moreover, from the plain reading of the impugned order itself it shows that the respondent -SECL themselves had taken note of such

a situation however, the company as a policy decision had taken a decision not to provide employment to those persons who are in-fact born much after the acquisition of the land and this policy was in prevalence all along and it was this policy or this policy decision which was referred to while rejecting the claim of the petitioner.

13. From the aforesaid factual matrix of the case itself it is evidently clear that the petitioner has not made out a strong case enabling interference with the impugned order Annexure P/1 both on the grounds of raising the dispute at an inordinately belated stage and also on the ground that the petitioner has not been able to substantiate his claim based upon any particular policy or guidelines of the respondent -authorities which provides for claiming of employment by those persons who are born much subsequent to the acquisition.

14. The present writ petition therefore being devoid of merits on the both the two grounds deserve to be and is accordingly rejected.

**Sd/-
(P. Sam Koshy)
Judge**

Jyotijha