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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.11742 of 2004

B. Duraisamy

... Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
Rep. by its Cheif Engineer (Personal),
800, Anna Salai, Chennai - 2.

2. The Superintendent Engineer (Civil),
Mettur Thermal Power Station,
Mettur Dam.

... Respondents

PRAYER: The Writ Petition has been 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 dated 07.08.2001 passed by the second respondent in Letter No.SE/C/MTPS/Ni-Aa/MTPS/Ko.Velaivaippu/ Survey No.16/A.No.349/2001, quash the same and direct the respondents to provide employment to the petitioners son for having acquired the patta lands belonging to the petitioner family.

For Petitioner : Mr.V.Ajay Khose

For Respondents : Mr.Anand Gopalan

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O R D E R

The present Writ Petition is directed against the rejection of request for employment under the category of displaced person during acquisition of lands for the respondents' project.

2. As per the Board Proceedings of the respondents, whenever there is acquisition of land for their projects, the displaced persons shall be given employment for rehabilitating themselves due to sudden displacement. The respondents have issued acquisition notification in the year 1986 for the purpose of the project called Lower Ash Dumping Power Project. Since there were



certain problems, they have issued a Board Proceedings vide B.P.Ms.(FB) No.87, dated 26.09.1986, wherein the condition that if a member of the family is already having an employment, this assistance cannot be extended was relaxed. As a special case, in the above-said Board Proceedings, the respondents have provided employment to those people, where their family is having one earning member. This is specific to 289 families, who suffered by the land acquisition for Lower Ash Dumping Area Power Project. Thereafter, the Government issued a notification under Section 4(1) of Land Acquisition Act, vide G.O.Ms.No.2386, dated 30.12.1986 for the purpose of acquiring land for Ash Dumping Area of respondents' for the other Project. The petitioner had also applied for employment under the category of displaced persons after a period of 12 years. However, it was rejected on the ground that the petitioner was employed as Assessor in TNEB and therefore, he is not entitled to the employment under this category. Further, the claim of the petitioner that he shall be given the benefits of B.P.Ms.(FB) No.87, dated 26.09.1986, was also denied on the ground that it is specific to the land acquired for Lower Ash Dumping Area and pertains only to the 289 families and not to the subsequent acquisition.

3. It is stated by the respondents that the subsequent acquisition made, wherein the lands of the petitioner were acquired, will attract only the general instructions, where there is an embargo for giving employment to the persons, who are already in employment. Challenging the rejection order, the petitioner has approached this Court on the ground of violation of equalities under Article 14 and 16 of the Constitution of India as well as discrimination.

4. I have heard the submissions made by the learned counsel appearing on either side.

5. On perusal of the materials placed before this Court, it is very clear that B.P.Ms.(FB) No.87, dated 26.09.1986 is specific to the acquisition made by the respondents for the power project for the Lower Ash Dumping Area. The petitioner does not fall within this acquisition and therefore, as rightly contended by the learned counsel for the respondents, B.P.Ms.(FB) No.87, dated 26.09.1986 will not apply to the case of the petitioner. In other words, the special concession provided to the families, which already had an earning member cannot be extended to the present acquisition, by which, the petitioner has lost his lands.

6. Secondly, the condition that where an earning member is already there, employment cannot be given, cannot also be relaxed as it will open the floodgates and will create a situation, where equals are treated unequally.



7. In a similar situation, the Hon'ble Division Bench of this Court in W.A.No.58 of 2018 [The Tamil Nadu Generation and Distribution Corporation Limited and another Vs. R.Karthikeyan and others] dated 24.08.2018 has upheld the very same Board Proceedings that has been applied to 289 families.

8. In yet another judgment reported in 2004 (4) LLN 163 [Chairman, Tamil Nadu Electricity Board, Chennai and another Vs. Arulnathan and others], the Hon'ble Division Bench of this Court has held that a displaced person does not have any fundamental right to employment on the ground of acquisition. Therefore, I do not find any reason to interfere with the impugned order.

9. However, the learned counsel for the petitioner would submit that the petitioner has materials to show that similarly placed persons were given the benefits of concession as given in B.P.Ms.(FB) No.87, dated 26.09.1986. If that is so, it is open to the petitioner to submit a fresh representation along with substantiating documents to get the benefits within a period of two (2) weeks from the date of receipt of a copy of this order. On such representation being submitted, the respondents are directed to consider the same on merits and pass appropriate orders in accordance with law within a period of six (6) weeks from the date of receipt of the representation.

With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Cheif Engineer (Personal),
800, Anna Salai, Chennai - 2.

2. The Superintendent Engineer (Civil),
Mettur Thermal Power Station,
Mettur Dam.

+1cc to M/s.T.S.Gopalan & Co, Advocate SR.No. 28890

W.P.No.11742 of 2004

PMK(CO)

B.VC(16.07.2021)