



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.03.2021

Delivered on : 26.04.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.8617 of 2014

M.Dillibabu

... Petitioner

..vs..

1. Tamilnadu Generation and
Distribution Corporation Ltd
Formerly known as
Tamilnadu Electricity Board
Rep. By its Chief Engineer
(Personnel)
144, Anna Salai
Chennai - 2.

2. The Chief Engineer
North Chennai Thermal Power Station
Tamilnadu Generation and Distribution
Corporation Ltd.,
Chennai - 600 120.

3. The Superintending Engineer
Civil Maintenance, North Chennai
Thermal Power Station, Tamilnadu
Generation and Distribution Corporation
Ltd., Chennai - 600 120

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the orders dated 22.06.2010, 02.01.2013 and 24.10.2013 passed by the Second Respondent in Letter No.CE/NCTPS/SC/Civil Work/EE/JE/Ko.Appeal No.210/1999/No.694/ 2010, Letter No.CE/NCTPS/SC/Civil Work/EE/JE/Ko.Appeal Nos.210/1999/No.03/13 and Letter No.CE/NCTPS/SC/Civil Work/EE/JE/Ko.Appeal Nos.210/1999/No.829/13, quash the same and consequently direct the Respondents to provide the Petitioner Compassionate appointment for having acquired the Petitioner's land for their project forthwith from the date on which the other similarly placed persons were given compassionate appointments.

For Petitioner : M/s R.Krishnaswamy
For R1 to R3 : M/s.T.S.Gopalan & Co.



ORDER

According to the Petitioner, the lands in S.No.896/1A Part, situated at No.144, Vallur Village, Ponneri Taluk, Chennai- 600 120, measuring to an extent of 0.57 acres, originally belonged to his grandfather Chinnakulanthai and later, they devolved to his father C.Munivel. While so, the said lands were acquired by the Land Acquisition Officer, namely the Special Tahsildar, (Land Acquisition) North Chennai Thermal Power Project, Inspection, Ennore, Chennai - 87, for starting North Chennai Thermal Power Project. Though one member in each family, from whom the lands were acquired for the said project, was assured of employment on Compassionate ground at the time of acquisition of their lands, the respondents did not provide such appointment to one member in each of the family from whom the lands were acquired.

2.The Petitioner further stated that the owners and members of the family of the land owners from whom the land were acquired to start a project called North Chennai Thermal Power Project, filed a batch of Writ Petitions, claiming Compassionate appointments. This Court disposed of the said writ petitions by a common order directing the Board to consider the claim of all the eligible persons for compassionate appointments from whom the lands were acquired to start the said project. Though the said order was taken on appeal by the Board, the same was disposed of by the Division Bench, by a common order dated 26.07.2003 in W.A. Nos.210 and 218 of 1999, directing the Board to find out as to whether the family seeking compassionate appointment was displaced due to the acquisition of their lands and also as to whether the said family was depending on the lands which were acquired from them and to give them appointment on compassionate ground, if they were displaced and if they were dependent on the lands which were acquired. Stating so, the Petitioner's father made representation to the respondents and requested them to provide appointment on compassionate ground. However, the said request was rejected by the 2nd respondent on the ground that his father Munivel has now been working as Fitter Grade - II in North Chennai Thermal Power Station and also on the ground that the lands which were acquired, could not be termed as major source of income. Aggrieved over the same, the petitioner has come up with this Writ Petition to quash the said orders passed by the respondent authorities.

3.The learned counsel for the petitioner submitted that the respondents have given compassionate appointment to one member in each family of all the land losers and whose lands were acquired for the North Chennai Thermal Project, however, they have not extended the said benefit to the petitioner and have rejected the claim of the petitioner stating that the petitioner's father was working as Fitter Grade II in North Chennai Thermal Power Station and the lands, which were



acquired could not be termed as the major source of income for his family, by the orders impugned herein, which are arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India.

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4.Per contra, the learned counsel for the respondents contended that G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978 provides employment to land losers in the ratio of one person per family, whose lands were acquired, if the said lands were the only major source of living for their families, whereas the petitioner did not satisfy the requirement as envisaged in the said scheme for providing job assistance to him. He also contended that the petitioner cannot claim employment as a matter of right on the ground of such acquisition of lands. But a policy was adopted by the State Government to consider the case of the land losers for employment by virtue of the rehabilitation scheme and based on such policy alone, the families of those, who are displaced by way of acquisition, will be considered. Thus, according to the learned counsel, the petitioner is not eligible for such appointment. In support of his contention, he placed on the following decisions: (i)Chairman, TNEB, Chennai and another v. Arulnathan and others [2004 (4) LLN 163] (ii)TANGEDCO v. R.Karthikeyan [WA.No.58 of 2018 dated 24.08.2018] (iii) Sellappa Gounder v. Chairman [2018 SCC Online Mad 3342] and (iv)M.Jayachandran v. Chief Engineer, North Chennai Thermal Power Station [2019 SCC Online Mad 16429].

5.Heard both sides and perused the materials placed before this Court.

6.There is no dispute that the lands were acquired by the respondents for construction of North Chennai Thermal Power Project and the family of the petitioner owns lands and they are the beneficiary under the Scheme, as their lands were also acquired. At the time of acquisition, the respondents assured of giving employment to one member of each family, whose lands were acquired for the said project and who have no other source of income. Normally, either the claimants or a member of their families in terms of the directions issued by the Government, have to be employed by the respondents and the compensation received by them, cannot be a ground to deny such relief to them. The compensation amount offered to the land losers cannot be termed as adequate, when the lands acquired were their sole source of income and the same can be regarded as solatium to meet out the immediate necessities of the displaced families.

7.It is the grievance of the petitioner that though he is entitled to job assistance by way of rehabilitation scheme, as per the policy decision of the Government in G.O.Ms.No.656 Labour and Employment Department, dated 29.06.1978, the respondents refused to consider his claim for employment by pointing out vague reasons. Whereas, according to the



respondents, the petitioner is not eligible for appointment under the compassionate grounds as per the Scheme and hence, the orders impugned herein do not call for any interference at the hands of this Court.

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8. It is seen that the Government has issued an order in G.O.Ms.No.656 dated 29.06.1978, ensuring rehabilitation by way of employment of all the uprooted family by affording them one employment for each family. Such decision was taken to ensure social security by way of employment to the families of the land losers. It is made clear that such appointment can be made from one among the family member and not any stranger. In the light of the said Scheme, the petitioner has the right for job assistance, provided to satisfy the condition of eligibility. Admittedly, the petitioner's family had displaced on account of the acquisition for the benefit of the respondents. Hence, the respondents are duty bound to perform their obligation by providing job assistance under the rehabilitation scheme, subject to satisfy the eligibility criteria, but they refused to act upon by giving evasive reasons.

9. This Court has no agreement with the stand taken by the respondents in the orders impugned herein. The Government having evolved a scheme for employment for land losers and the same having been adopted by the respondents, they cannot wriggle out from the commitment made. It is to be pointed out that the petitioner's lands were acquired for the purpose of setting up the North Chennai Thermal Power Station. However, the petitioner's repeated representations to the respondents were not properly considered and his claim was ultimately, rejected, stating that his father was working as Fitter Grade II in North Chennai Thermal Power Station and the lands which were acquired could not be termed as the major source of income of his family. The reasons so adduced by the respondents cannot be accepted by this Court, in view of the admitted fact that at the time of acquisition itself, he was working and that, the lands were acquired with an assurance of providing employment to the land losers. Further more, this Court already passed an order in W.P.Nos.13789, 13790 and 13791 of 2011 dated 22.09.2011, directing the District Collector to prepare the list of lands losers / displaced persons and directing the Board to give appointment to one member in a family, whose lands were acquired. However, the respondents have not provided job assistance under the rehabilitation scheme to the petitioner till date. That apart, the decisions relied on the side of the respondents cannot be applicable herein, as the facts involved therein are factually distinguishable. Therefore, the orders impugned herein are liable to be set aside.

10. Accordingly, the orders passed by the respondent authorities are set aside and the matter is remitted back to the respondents for their consideration. The respondents are directed to



re-consider the claim of the petitioner seeking compassionate appointment as envisaged in G.O.Ms.No.656, Labour and Employment Department dated 29.06.1978, after verifying the genuineness of the claim made, educational qualification, etc. and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

11.This writ petition stands disposed of in the above terms. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. Tamilnadu Generation and
Distribution Corporation Ltd
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Ltd., Chennai - 600 120.

+1cc to M/s.T.S.Gopalan & co, Advocate SR.No. 25598

W.P.No.8617 of 2014

SMI (CO)
B.VC(14.07.2021)