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W.P. No.31062 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.31062 of 2017
and
W.M.P.No.34066 of 2017

K.Srikanth

... Petitioner

Vs.

1.The Director of Public Health and
Preventive Medicine Department,
Chennai – 600 006.

2.The District Collector,
Erode, Erode District.

3.The District Employment Officer,
District Employment Officer,
Erode District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in the proceeding O.Mu.No.114817/PHC6/A1/2015 dated 08.02.2016 and quash the same and consequently direct the 1st respondent to forth with appoint the petitioner as Office Assistant.

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For Petitioner : Mr.K.Raja
For Respondents
R1 : Mr.E.Sundaram
Government Advocate
R2 & R3 : Mr.S.P.Karthik
Government Advocate.

ORDER

The case of the petitioner is that the land belonging to his Grand Father situated in old Survey No.178A New Survey No.508/1, Ukkaram Village, Sathyamangalam Taluk, Erode District was acquired by the respondents in the year 1956 for the purpose of construction of Primary Health Centre and compensation was also paid to the Grand Father of the petitioner.

2. The petitioner herein, who was born on 01.06.1974 i.e., almost about 20 years after the land was acquired, made a claim for the benefit of priority in employment under G.O.Ms.No.188, Personnel and Administrative Reforms (Per.P) Department dated 28.12.1976. He made a claim for employment on priority basis and also obtained a land losen certificate on 23.06.2008. However, the claim made by the petitioner was rejected by the respondents by issuing impugned order dated 08.02.2016, on the ground that the land of the petitioner's family was donated by his Grand Father and not



acquired by the respondents. Aggrieved by the said order dated 08.02.2016, the petitioner approached this Court by filing the present writ petition.

3. This Court, on having heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents, and on perusal of the entire materials on record, this Court is of the considered view that the claim of the petitioner is totally misplaced as he has no right to claim any such priority in employment. Even assuming that the G.O.Ms.No.188, Personnel and Administrative Reforms (Per.P) Department dated 28.12.1976 applies to the acquisition of the land belonging to the family of the petitioner or his Grand Father, the preference that is sought to be given under the said order is only to those who are dependant for their livelihood, primarily and wholly on the lands that was acquired.

4. Admittedly, in the instant case, the land was acquired in the year 1956 by which time the petitioner was not even born. Therefore, the question of petitioner being dependant for his livelihood, primarily or wholly on the land acquired in the year 1956 does not arise. Further the said Government order in G.O.Ms.No.188 Personnel and Administrative Reforms (Per.P)



Department dated 28.12.1976 was issued only in the year 1976. From the perusal of the said G.O, there is nothing to indicate that the same given with retrospective effect or the benefit is sought to be extended even to the lands acquired prior to the issuance of the said Government Order.

5. In the instant case, the land was donated/acquired 20 years prior to the issuance of the Government order. Therefore for this reason also, the petitioner is not entitled to make any claim placing reliance on the said Government order. It is only based on the said Government order, the petitioner made a claim for priority in employment. Once it is concluded that the said G.O has no application to the land acquired in the year 1956, the entire claim of the petitioner falls to the ground. Further, it is also necessary to notice that it is only in the year 2015, the petitioner made a claim for priority in employment by submitting an application which was considered and rejected by the respondents by issuing impugned proceeding dated 08.02.2016.

6. It is not the case of the petitioner that the family of the petitioner was not paid compensation for the land that was acquired in the year 1956. It



is only the concession that is sought to be extended by the State in respect of the persons who lost their land in acquisition for public purpose, but the same cannot be claimed as a matter of right by the persons/successor who are legal heirs of the land losers. Even assuming that it is applicable, the benefit is only to the persons who are dependant on the land when it was acquired in the year 1956 but not to the lenial descendants of the persons who lost their lands. The petitioner is already aged 43 years by the date of filing this writ petition which in the year 2017 and as of now he is almost around 50 years of age.

7. In the light of the above, this Court is of the considered view, even if the reason for rejecting the claim of the petitioner as mentioned in the impugned order is factually in-correct, the petitioner is not entitled to claim any such benefit of employment on the ground of losing land as early as in the year 1956.

8. The learned counsel for the petitioner placed reliance on the decision of this Court in W.P.No.34725 of 2007. In the said case, the case of the Grand son of the land loser was considered. But from the perusal of the



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said order it is not clear as to when the land was exactly acquired and whether the petitioner therein was the dependant of the said land or not. That is not a matter that was considered in the said decision. If the land was acquired after the year 1976 i.e., after issuance of G.O and the petitioner therein was the dependant on the land acquired for his livelihood, then the case of the Grand Son of the land loser can be considered for priority in employment. But in the instant case, the petitioner was not even born as on the date of acquisition of the land in the year 1956. Therefore, the decision is not applicable to the case on hand.

9. In the light of the above, this Court does not find any merits in this writ petition and the same is accordingly dismissed.

03.04.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

1.The Director of Public Health and

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Preventive Medicine Department,
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District Employment Officer,
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MUMMINENI SUDHEER KUMAR,J.



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