

09.06.2025.
Item Nos. 7 & 8.
Court No. 13
ap

**M.A.T. No. 1704 of 2015
With
I.A. No. CAN 1 of 2025**

**State of West Bengal & Ors.
Versus
Sephali Majhi & Ors.
With
F.M.A. No. 3611 of 2015
AND
I.A. No. CAN 1 of 2023
And
I.A. No. CAN 2 of 2023
And
I.A. No. CAN 3 of 2023**

**Damodar Valley Corporation & Ors.
Versus
Sephali Majhi & Ors.**

Mr. Lalit Mohan Mahata, Id. A.G.P,
Mr. Prasanta Behari Mahata.

...For the appellants.

Mr. Pradip Tarafder, Id. Sr. Advocate,
Mr. Subir Pal.

...For the DVC.

1. The respondents are not represented today,
despite notice.

Re: CAN 3 of 2025 in FMA 3611 of 2015
(Condonation of delay)

2. This is an application filed under Section 5 of the
Limitation Act, 1963 for condonation of delay of about
120 days in filing CAN 1 of 2023.

3. Having heard the learned Advocate appearing on
behalf of the appellants as also considering the
statements made in the said application, this Court is
satisfied with the grounds indicated therein, as

sufficiently explaining delay of 120 days in preferring the appeal.

4. In view of the above, the application for condonation of delay is allowed and disposed of.

5. There will be no order as to costs.

Re: CAN 1 of 2025 in FMA 3611 of 2015
(Restoration)

6. Sufficient grounds are available to explain the absence of the appellants and/or their Counsel on 21st June, 2023 before a Co-ordinate Bench of this Court.

7. The said order is recalled and the appeal being F.M.A. 3611 of 2015 is restored to its original file and number.

8. Accordingly, CAN 1 of 2025 is disposed of.

9. There will be no order as to costs.

Re: CAN 1 of 2025 in MAT 1704 of 2015

10. Sufficient grounds are available to explain the absence of the appellant and their Counsels on the 17th March, 2015. The order is recalled. The appeal is restored to its file and number. CAN 1 of 2025 is allowed.

Re: CAN of 2025 in MAT 1704 of 2015

11. Sufficient grounds are available to explain the delay in filing the memorandum of appeal. The delay is condoned. CAN is allowed and disposed of. There will be no order as to costs.

Re: MAT 1704 of 2015 & FMA 3611 of 2015

12. The aforesaid two appeals being M.A.T. No. 1704 of 2015 and F.M.A. No. 3611 of 2015 have been filed

by the Damodar Valley Corporation and the State of West Bengal respectively against the judgment and order dated 17th July, 2015 passed by a learned Single Judge of this Court in W.P. No. 17243 (W) of 2011.

13. The case of the petitioner before the Single Bench was that she is the daughter of one Kinkar Maji. She claimed employment in the land loser category on account of 1/6th share in the land required by DVC standing in the name of one Khudiram Maji that devolved upon his wife Durgabala Maji. The land was required by the Damodar Valley Corporation for construction of Mejia Thermal Plant Station (MTPS).

14. In addition to compensation, a Scheme was propounded by the State in consultation with the Damodar Valley Corporation to provide employment entitled “Recruitment Policy for Unskilled & Manual Posts at Mejia Thermal Power Station for displaced persons on rehabilitation grounds.”

15. In terms of the said Scheme, a panel of 500 persons was to be prepared by the District Magistrate, Bankura. The eligibility criteria was that only families who lost 75% of their land holding in the acquisition proceeding, would be eligible for consideration for employment of one family member. 500 families would be entitled to nominate one person each, namely, husband or wife of the land owner or son or sons and daughter or daughters. There were educational qualifications prescribed. The candidate was, inter

alia, required to be above 18 years of age and below 25 years.

16. The person nominated for employment, by Khudiram Majhi land loser, was his wife Durgabala Maji was herself. Subsequently, the said Durgabala Maji changed the nomination due to her age in favour of the respondent no.9, Madan Maji i.e. her son. Due to the fact that the son did not take care of his mother, Durgabala Maji changed the nomination in favour of the writ petitioner, Sephali Majhi, daughter of one Kinkar Maji.

17. Admittedly, Sephali Majhi was the daughter of the land loser Durgabala Majhi. As on the date of change of nomination from Madan Majhi to Sephali Majhi, the latter was already married.

18. Clause (6) of the SoP/guidelines dated 28th October, 1994 framed by the District Magistrate and several representatives of the State Government and the MTPS signed on 30th November, 1994 stipulated that family member to be nominated by the family of the land loser was, inter alia, required to be an unmarried adult daughter.

19. The object and purpose of such employment of a family member against acquisition of land is to ensure that the family receives appropriate income for the loss of land.

20. The finding of the learned Single Judge that there is discrimination towards unmarried daughters

by reason of the Scheme dated 28th October, 1994 appears to be clearly misplaced.

21. It is now well-settled that even employment as an additional benefit in the case of land losers whose lands are acquired, are required to be made strictly in terms of the Scheme framed therefor. Reference in this regard is made to a decision of the Hon'ble Supreme Court of India in the case of ***Punjab State Electricity Board & Ors. – Vs. – Malkiat Singh*** reported in ***JT 2004 (8) SC 526*** particularly at paragraph 6 thereof.

22. Indeed quite akin to the principles of compassionate employment, the provision for employment of a family member of a land loser is an exception to the general principle of recruitment. If the object of providing employment is to ensure appropriate income to the family of a land loser, a married daughter who gets separated from her family by reason of marriage, there is no guarantee that she will provide the income from her employment to the family of the land loser.

23. What is all the more curious to note in the instant case is that there was no guarantee of employment. 500 persons were merely to be empanelled for a period of time. The chance of employment would depend on vacancies that would arise in the MTPS.

24. For the reasons, inter alia, stated hereinabove, this Court is of the clear view that the learned Single

Judge committed error in directing the writ petitioner to be given employment in “land loser category” by the Damodar Valley Corporation for requiring land for Mejia Thermal Power Station.

25. In that view of the matter, the impugned judgment and order dated 17th July, 2015 shall stand set aside. The writ petition shall stand dismissed. The aforesaid two appeals are allowed and disposed of.

26. There will be no order as to costs.

27. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)