

(2023) 03 CHH CK 0074
In the Chhattisgarh High Court
Case No : Writ Petition (227) No. 289 Of 2023

Brijesh Sahu

APPELLANT

Vs

South Eastern Coalfields Limited

RESPONDENT

Date of Decision : 29-03-2023

Acts Referred:

Constitution Of India, 1950 — Article 227
Coal Bearing Areas (Acquisition and Development) Act, 1957 — Section 14, 14(5), 17(2)

Citation : (2023) 03 CHH CK 0074

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : TK Jha, Sumit Singh Rathore, Vaibhav Kartik Agrawal, Pankaj Agrawal

Final Decision : Disposed Of

Judgement

1. This Petition has been filed under Article 227 of the Constitution of India being aggrieved by the order dated 28.02.2023 passed by the District Judge Bilaspur-cum-Part Time Tribunal (for short 'the Tribunal') under Coal Bearing Areas (Acquisition and Development) Act, 1957 (for short the 'Act of 1957') in MJC Civil No.136/2023 whereby, the application filed by the Petitioner for determination of compensation as per Section 14(5) of the Act of 1957 on merits as also for restoration of the case, has been dismissed.

2. Brief facts of the case are that the land of the Petitioner/Claimant was acquired by the competent authority i.e. SECL and proper compensation was not determined, therefore, the Petitioner/Claimant has not accepted the award and the SECL has deposited the calculated amount before the Tribunal and the Petitioner/Claimant had filed a Petition before the said Tribunal. The Petitioner/Claimant had earlier sought for enhancement of the compensation, which has already been determined but the Tribunal had refused to pay the said amount, therefore, he had approached this High Court in W.P(C) No.2161/2021 wherein, vide order dated 14.06.2021, this Court had categorically observed that "the

Petitioner shall be entitled to receive the undisputed amount of compensation which has already been deposited by the SECL and if the amount of compensation is received, it will not work as an estoppel against the Petitioner for eventual determination of the final compensation by the Tribunal and the Petitioner shall be entitled to receive the undisputed amount which has already been deposited to the extent of his part of compensation.” Thereafter, on 23.10.2021, the Petitioner/Claimant had filed an application under Section 14 of the Act of 1957 for enhancement of the compensation determined and also for enhancement of the interest rate to the tune 18% and on the said date, SECL has not objected for disbursement of the amount which has already been deposited before the Tribunal and thereafter, the Tribunal has enquired whether the Petitioner/Claimant is satisfied or not to which, he has stated that no dispute remains now, therefore, after recording his satisfaction, the compensation to the tune of Rs.36,92,707/- has been disbursed in his favour but the Petitioner/Claimant has again stated before the Tribunal that he does not want to pursue the matter any further, therefore, the matter was closed. Thereafter, the Petitioner/Claimant has again filed an application for restoration of a re-opening claim i.e. PTT Case No.85/2018 to get the same decided on merits and the Respondents had objected the same by stating that as the Petitioner/Claimant had earlier stated before the Tribunal that he is satisfied with the compensation amount, therefore, the principle of rule of estoppel applies and it is not permissible to reopen the case. The Tribunal has accepted the contention of the Respondents and dismissed the application filed by the Petitioner/Claimant vide the order impugned. Hence this Petition.

3. Learned Counsel for the Petitioner submits that from the very beginning, the Petitioner/Claimant had contested the proceeding in respect of the determination and quantum of the amount of compensation, which has been deposited by the Respondents as he is not satisfied with the same and the Tribunal has declined to disburse the amount, which has already been deposited by the SECL, therefore, in such eventuality, he had no other option but to approach this Court and in W.P(C) No.2161/2021, vide order dated 14.06.2021, it has been categorically observed that if the amount of compensation is received by the Petitioner/Claimant, it will not work as an estoppel against the Petitioner for eventual determination of the final compensation and the Tribunal has been directed to disburse the amount, which has already been deposited by the SECL. He further submits that in the order dated 23.10.2021, in the 1st para, it has been categorically mentioned that the Petitioner had earlier approached the Tribunal under Section 14 of the Act of 1957 for enhancement of the amount of compensation with interest @ 18% and thereafter, in the same breathe, the concerned Tribunal has also recorded the satisfaction of the Petitioner/Claimant that he does not want to pursue the matter further as he is satisfied with the compensation amount. He further submits that from the said order, it is not reflected that the concerned Tribunal had asked the Petitioner/Claimant whether he had filed an application for enhancement of the amount or not and whether

he does not want to contest the case on merits to determine the compensation further and prays to allow the Petition.

4. Heard learned Counsel for the Petitioner and perused the documents annexed with the Petition carefully.

5. Considering the conduct of the Petitioner as he had earlier approached this Court to receive the amount under protest and this Court had also reserved his rights and even the statute of Section 17(2) of the Act of 1957 also stipulates that if the person who has received the amount otherwise than under protest shall be entitled to prefer any such claim before the Tribunal and as the Petitioner/Claimant had initially not consented to receive the compensation amount on the ground of it being insufficient, therefore, this Court thinks that the Tribunal was bound to determine the case on merits as per Section 14(5) of the Act of 1957 after deciding the dispute and should have passed an award on merits by determining the compensation which appears to be just and proper.

6. In view of above, this Court is of the considered opinion that the order impugned is not sustainable and the concerned Tribunal is directed to determine the compensation strictly on merits as per the provision under Section 14(5) of the Act of 1957 and the parties are directed to remain present before the concerned Tribunal on 11.04.2023.

7. With the aforesaid observation, the Petition stands disposed of.