

(1967) 10 P&H CK 0022
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1631 of 1962

Mehta Lal Chand	Vs	APPELLANT
Union of India and others		RESPONDENT

Date of Decision : 06-10-1967

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 33

Citation : (1967) 10 P&H CK 0022

Hon'ble Judges : R.S. Narula, J

Bench : Single Bench

Advocate : H.S. Gujral, for the Appellant; H.L. Mittal, for Respondents Nos. 3(i) to 3(iii), for the Respondent

Final Decision : Dismissed

Judgement

R.S. Narula, J.—Mehta Lal Chand petitioner a displaced person from West Pakistan was entitled to allotment of agricultural land in lieu of that left behind by him. When he was still an unsatisfied allottee to a certain extent, the petitioner reported to the Rehabilitation authorities that Suchet Singh, respondent No. 3 (now represented by his successors after his death under order of this Court dated November 30, 1965 in Civil Miscellaneous No. 4170 of 1965) had received double allotment in different villages and that his allotment in village Dhut Kalan being undeserved, was liable to be cancelled and the petitioner was entitled to the allotment of the same. The claim of the petitioner having been negated by the Rehabilitation Authorities, he filed this writ petition on September 7, 1962 for setting aside the impugned departmental order. Respondent No. 3 alone has contested this writ petition.

2. Mr. Harbans Singh Gujral, the Learned Counsel for the petitioner has pressed only two points in support of this writ petition. It has been firstly contended that he had a statutory right to be heard by the Central Government in support of his petition u/s 33 of the Displaced. Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter called the "Act") Error! Hyperlink reference not valid. his said.

petition could be dismissed by the Government. He emphasised that though it was held by a Division Bench of this Court (Falslow C.J. and Chand J.) in *Ranju Singh v. The Union of India* (1962) 64 P.L.R.44 that the law does not require that if any person chooses to request the Central Government u/s 33 of the Act for reversing, some decision, such a person must be given a personal hearing before the decision of the Government not to interfere with the earlier order is communicated to him, the said law does not hold good after the authoritative pronouncement of the Full Bench of this Court in *Chanan Dass v. Union of India* (1967) 69 P.L.J.R. 1.

3. The reasoning of Mr. Gujral is that the earlier Division Bench judgement was based on the legal finding that proceedings u/s 33 of the Act before the Central Government are not in the nature of a revision as distinguished from a revision proper u/s 24 of the Act, but are merely in exercise of the residuary powers under the Act. On that basis it was held that rule 105 of the rules framed under the Act has no application to proceedings u/s 33 and therefore, the requirements of Order XLI rule 11 of the CPC cannot be invoked for cases u/s 33. On the other hand, it has now been laid down by the Full Bench in *Chanan's Dass* case that the nature and content of the power given to the Central Government u/s 33 of the Act is not in actual substance fundamentally different from the nature and content of the power of revision given to Chief Settlement Commissioner under sub-section (1) or the Central Government under sub-section (4) of Section 24 of the Act. The earlier Division Bench judgment is claimed to have been impliedly reversed, by the Full Bench. After a careful consideration of the matter, I have not been able to agree with the contention of Mr. Gujral in this respect. The Division Bench judgment in *Ranjit Singh* case (1962) 64 P.L.R. 44, has not been overruled by the Full Bench and is binding on me while sitting in Single Bench. I think the aspect of section 33 which was being considered by the Full Bench, was different, than the one which was under consideration of the Division Bench. In any event, as already stated, the Division Bench judgment is binding on me and following the same I hold that it was not necessary for the Central Government: to hear the petitioner before dismissing his application u/s 33 of the Act, whereby the order of the Chief Settlement Commissioner was upheld.

4. The only other submission made by the Learned Counsel for the petitioner is that after having held in his order dated January 21, 1957 (Annexure- "E") that there had been double allotment to Suchet Singh, the Managing Officer was left with no jurisdiction to pass an order to the contrary on June 10, 1957 (Annexure "D"), whereby it was found that no double allotment had been made to Suchet Singh. This argument can be replied for two reasons. Firstly, it is clear from the original departmental record which is before me that the Deputy Secretary, Rehabilitation passed an order in Suchet Singh's case on February 28, 1967 to the following effect.

"A.S.O. vide his report, dated 21st January 1957, recommended cancellation of

his allotment in village Dhoot Kalan on the ground that he held double allotment which was in villages Bhunge and Daulatpur. The petitioner has produced report of the Patwari which indicates, that allotment has been made to him in villages Bhunga and Dualatpur. A.S.O. will please re-examine the case in the light of Patwari's report. The case is remanded. The petitioner is directed to appear before the A.S.O. on 7th March, 1957.

It is obvious, that the order of the Managing Officer dated January 21, 1957 (Annexure "E") was completely obliterated by the Chief Settlement Commissioner, (Deputy Secretary) vide his order dated February 28, 1957 (quoted above) and that the earlier order of the Managing Officer did not, therefore, stand in his way from giving a finding different from that recorded by him on January 21, 1957. It is significant that in the opening part of his order dated June 10, 1957 (Annexure "D"), reference is made to ""Deputy Secretary, Rehabilitation"s order dated 28th February 1957. It is a matter of regret that the petitioner did not take this Court into confidence regarding the order dated February 28, 1957, which has been unearthed from the departmental records. That being so, there is no force at all in the second submission of the Learned Counsel. Secondly, I am inclined to agree with the law laid down by Sharma J. on March 26, 1956 in Civil Writ No. 1632 of Mehta Lal Chand v. The Union of India C.W. No. 1632 of 1962, wherein it was held inter alia, that the writ, petition of the petitioner was liable to be dismissed as he had no legal right to allotment of land in dispute under any statute or rule having the force of law. Mr. Gujral's contention is that what really weighed with Sharma J. at best was the fact that the petitioner had not impleaded the Managing Officer and the Assistant Settlement Commissioner as parties to the proceedings. The order of Sharma J. was no doubt based on three grounds i.e. (1) non-impleading of necessary parties, (2) petitioner having no legal right, and (3) the Authorities concerned not having offended any provision of law in making the allotment of the disputed land to the contesting respondent. The fact however, remains that the principal ground on merits on which the writ petition failed was that the learned Judge held that no displaced person entitled to the allotment of agricultural land had "any" legal right to insist upon any particular parcel of land from acquired agricultural evacuee property being given to him. That was also a case in which the petitioner claimed to be entitled to the land of some other allottee on the ground that it had been cancelled on information given by the petitioner.

5. When I was going to start dictating this judgment, Mr. Gujral interrupted to state that he had just received some papers from his client who was in the hospital, which he wanted to file in this case in order to prove that the order of the Rehabilitation Authorities holding that there had been no double allotment in favour of Suchet Singh was patently incorrect. I have declined to grant any adjournment at this stage for the said purpose as I do not consider it open to me to go into the merits of the controversy as to whether the allotment to Suchet Singh had been correctly made or not and also for the further reason that this writ petition having been pending in this Court since 1962, it is too late in the day for

the petitioner to ask for an adjournment for filing fresh documents.

6. No other point having been, argued in this case, the writ petition fails and is, dismissed with costs.