

(1999) 05 AHC CK 0211

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 21564 of 1999

Raja Singh

APPELLANT

Vs

General Manager, Power Grid Corporation of India Ltd. and
another

RESPONDENT

Date of Decision : 24-05-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 3 AWC 2466 : (1999) 2 UPLBEC 1401

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : L.P. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

D.K. Seth, J.—Shri L. P. Singh. learned counsel for the petitioner submits that the entire land of the petitioner was acquired some time in 1984 by the State Government for the respondents. According to the Government Circular dated 29.2.1996 contained in Annexure 7 to the writ petition, the petitioner is entitled to employment since his entire land was acquired by the State Government for the respondents.

2. Learned counsel for the respondents on the other hand contends that the petitioner is guilty of delay and laches. Secondly, he contends that the Government Order contained in Annexure-7 is applicable only in respect of the corporation/undertaking of the State Government. Here in this case the respondents are Central Government Corporation and, therefore, the said Government Order does not apply. He next contends that the petitioner could not have any legal or statutory right to get the appointment on compassionate ground.

3. Mr. Singh, learned counsel for the petitioner in reply contends that the land was acquired by the State Government for the respondent. Whenever the land is

acquired by the Government irrespective of the beneficiary being Central Government Organisation or State Government Organisation. This nature and character of the organisation does not make any distinction so far as application of Annexure-7. In the present case admittedly, the land was acquired by the State Government for the respondents as beneficiaries. He relies on the decision in the case of *Umesh Chandra Srivastava v. District Magistrate and others* 1904 (24) ALR 38 in support of his contention that whenever State Government acquires land it imposes a condition on the beneficiaries that they are required to give appointment to one of the members of the displaced person whose land has been acquired. He then contends that several other persons mentioned in paragraph 13 of the writ petition were given employment. Thus, the respondents are discriminating between the petitioner and those persons mentioned at para 13 who were similarly situated.

4. I have heard learned counsel for the parties.

5. So far as the applicability of the Government Order contained in Annexure-7 is concerned, it can be deciphered from the order that whenever the State Government had acquired land for any public purpose for various projects, it may make provision of giving employment to one of the members of the family of the displaced person whose land is acquired. In the present case, the land was acquired by the State Government for the benefit of the respondents. Thus, the land being acquired by the State Government, the Government Order, contained in Annexure-7, is very much applicable in the present case. It is immaterial whether the beneficiary is controlled by the Central Government or State Government. If the land is acquired on account of public purpose by the State Government, the Government Order is applicable. This finds support from the decision in the case of *Umesh Chandra Srivastava (supra)*, where it was held that the State Government whenever acquires land, it has every right to impose a condition on the beneficiary in the form of agreement or in the form of Government Order. Therefore, relying on the decision, it can be concluded that the said Government Order is very much applicable irrespective of the fact that the beneficiary is controlled by the Central Government. Therefore, the second point raised by learned counsel for respondents cannot be acceded to. So far as the third point that the petitioner has no legal or statutory right is concerned, admittedly the appointment is on compassionate ground. It gives a right to be considered but it is not a right to be appointed. The question is of consideration. But it is not necessary for the purpose of the present case to go into that question at this stage in view of the decision on the first point taken by the learned counsel for the respondents.

6. So far as the first point is concerned that there was delay and laches on the part of the petitioner, it appears that the land was acquired in 1984 and the award was published in 1986. Though the learned counsel for the petitioner contended that the petitioner has not received any compensation out of the award but whether the petitioner has received the money out of the award or

not, is not a question of fact to be considered for the purpose of giving employment under the Government Order. Even if he has received compensation, he is still entitled to the appointment on compassionate ground under the said Government Order, if he is otherwise eligible. The question of appointment is not dependent on the receipt of money out of the award or non-receipt thereof. Therefore, the said question is not relevant for our present purpose.

7. Mr. Singh, learned counsel for the petitioner explained the delay in paragraph Nos. 6, 7, 8, 9 and 10, where it has been pleaded that he had been sending reminders including legal notice and had been also approaching personally. In paragraph 7, reminder was alleged to have been sent on 30.9.1989 and in paragraph No. 8 a legal notice was alleged to have been sent on 13.8.1990 and then another notice was alleged to have been sent on 2.4.1994, then thereafter in 1995-96, 1997 and lastly on February, 1999. Admittedly the representations are not remedy appointed by law as has been held in the Apex Court decision following which the decision in the case of *Moti Lal Jain v. Director of Technical Education* 1996 (3) UPLBEC 2077 was rendered.

8. The petitioner has applied for appointment on 26.8.1986. He has waited for moving this writ petition from 1986 till date which is almost 13 years. In the absence of any explanation with regard to the delay except that the application was recommended by one of the officer, it is not possible to entertain this petition on the ground of delay. Even if there was a recommendation, if the petitioner had waited for such long time which has come in his way. Making of representation right from 1986 could not be said to be a ground for waiting till 1999 for long 13 years in approaching this Court. Representations are not remedy appointed in law. Therefore, on the ground of delay this writ petition cannot be entertained relying on the decision in the case of *Moti Lal Jain* (supra).

9. Since the writ petition cannot be entertained on the ground of delay and laches, the question of discrimination as pleaded in para 13 of the writ petition that some other persons were given appointment, though, they were similarly situated, become irrelevant.

10. The writ petition, therefore, falls and is accordingly dismissed.

However, there will be no order as to costs.