
(2018) 04 JH CK 0082
In the Jharkhand High Court
Case No : W.P. (S) No. 3861 of 2008

RAM PRASAD MANJHI

APPELLANT

Vs

STATE OF JHARKHAND AND OTHER

RESPONDENT

Date of Decision : 11-04-2018

Acts Referred:

Constitution of India, — Article 14, 16, 226

Citation : (2018) 04 JH CK 0082

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : K.K. Singh, Sanjay Kumar, K.H Rashmi, Piyush Chitresh

Final Decision : Dismissed

Judgement

Pramath Patnaik, J.:

1. In the captioned writ application, prayer has been made for direction to the respondents to consider the representation of the petitioner for

appointment on compassionate ground as IVth Grade employee, under the scheme meant for land losers due to acquisition of land for establishment of

Bokaro Steel Plant.

2. The brief facts, as has been disclosed in the writ application, is that the ancestral land of the petitioner was acquired for construction of Bokaro

Steel Plant, Vide L.A. Case No.248/75-76 in award no.50 and the awardee was Putki Manjhiyan, mother of the petitioner whose name found place in

the certificate issued by the Special Land Acquisition Officer, as per Annexure-1 to the writ petition. For acquisition of the land compensation was

paid in the year 1983 but the employment was not provided. In the year 1984, mother of the petitioner submitted representation for providing

employment vide Annexure-2 to the writ petition. In the year 2005, the mother of the petitioner sworn an affidavit stating therein that the name of the

petitioner has already entered in the DPLR Office, Marafari, hence the authority of Bokaro Steel Plant may consider the name of the petitioner for

appointment on compassionate ground under the scheme meant for displaced person, according to which one member of each displaced family ought

to be given employment in the Bokaro Steel Plant apart from grant of compensation and affidavit in that regard has been annexed as Annexure-3 to

the writ petition. In the year 2003 the petitioner came to understand that several displaced persons have been appointed by the concerned authority in

Grade-IV post and some of the persons whose cases were not considered have approached this Court in W.P.(S) No.6619/2003 which has been

disposed of vide order dated 07.01.2004 with direction to the respondents to consider the claim in the light of the judgment passed in L.P.A.

No.161/1996(R) and take decision with regard to claim of the petitioner. Being aggrieved by the inaction of the respondents in not giving employment

to the petitioner, the petitioner has been compelled to approach this Court under Article 226 of the Constitution of India for redressal of his grievance.

3. Learned counsel for the petitioner has submitted with vehemence that the action of the respondents in not considering the representation of the

petitioner for appointment under compassionate ground being displaced person in Class-IV post, amounts to illegal and arbitrary exercise of power.

Learned counsel for the petitioner further submits that the respondents ought to have adhered to the objection as enshrined in the scheme for

appointment of land losers since similarly situated persons have been appointed in the light of observation of this Honâ??ble Court in L.P.A No.161

and 162 of 1996(R) and, therefore, there has been breach of Article 14 and 16 of the Constitution of India.

4. Controverting the averments made in the writ application, a counter affidavit has been filed on behalf of the respondents stating therein that the

scheme for appointment to the displaced persons on compassionate ground was withdrawn way back in the year 1986 by the Govt. of India. It has

further been submitted that the project of Bokaro Steel Plant was completed in the year 1966 and even after decades, the persons whose land were

acquired for the purposes of the project are still litigating for getting employment and as such the Honâ??ble Apex Court in a judgment reported in

(2008) 3 JCR 152 (SC) had observed that it now a high time to put an end on the litigation.

Considering the mandate as provided in the judgment cited above, this Honâ??ble Court had also disallowed the application for appointment on

compassionate grounds in W.P.(S) No.1596 of 2006 vide order dated 03.01.2012. It has further been submitted that recruitment in SAIL-BSL is well

defined process which includes requirement of man power, notification to Employment Exchange (whichever applicable), publication of advertisement

in newspaper and websites, inviting online applications from eligible candidates etc. All the requests for compassionate appointment in SAIL-BSL is

processed only as per the policy â??Guidelines and Procedures for dealing with compassionate casesâ? issued vide circular dated 20.02.2010 and in

the above mentioned policy there is no provision with regard to employment in SAIL-BSL on compassionate ground of being a displaced person. It has

further been submitted that as per the observation of the Honâ??ble Apex Court, consideration of the names of the persons for employment does not

give them a right to appointment, other things being equal, they will be given preference in the matter of employment as and when vacancy arises.

5. A supplementary counter affidavit has been filed on behalf of the respondents in pursuance to the order dated 08.01.2018 passed by this Court

wherein it has been mentioned that land acquisition for Bokaro Steel Plant was started in the year 1956 by the State Government through various

notifications under part-II of the Land Acquisition Act, 1894 and before land acquisition, there was no scheme prevalent for recruitment of displaced

persons. Further, an understanding was reached between the Union Government, the State Government and the Company that apart from

compensation, one person from each displaced family would be given employment in the steel plant. In view of the understanding, a list was prepared

of all persons whose lands were acquired along with building and structures and those whose lands had been acquired which did not have any building

and structures. So far as appointment in SAIL/BSL is concerned, the same is being done under the guidelines:

(a) Recruitment through open advertisement.

(b) Recruitment through compassionate employment.

Â In the scheme, there is no provision for providing employment in SAIL-BSL on

the ground of being a displaced person. But as per the decision of the Honâ??ble Apex Court referred to above, the process of employment of locally displaced persons in Bokaro Steel Plant can only be considered in the light of the aforesaid judgment. Hence, for a displaced person to be covered by this judgment and be given preference accordingly, the individual must be in a position of tie in the merit list with another non-displaced person candidate who has applied for the same position through open advertisement process. Under such circumstances, the individual can be considered and given preference (on account of being displaced) for appointment against the post applied for, other things being equal as per the directions of the Honâ??ble Supreme Court. In the light of the mandate of the Honâ??ble Apex Court similar matter has been disposed of in W.P.(S) No.1263 of 2004 vide order dated 03.01.2012 as per Annexure-A to the counter affidavit.

6. Learned counsel for the respondents apart from reiterating the submission made in the counter affidavit has submitted that the case of the petitioner deserves to be disposed of, in the light of the observation made by the Honâ??ble Apex Court and the order passed in W.P.(S) No.1263 of 2004 and batch of cases.

7. After having heard the learned counsel for the respective parties at length and on perusal of the records, I am of the considered view that the claim of the petitioner for appointment being a displaced person cannot be acceded to, in view of the following facts and reasons:-

(I) On perusal of the statement made in the counter affidavit that the scheme for giving employment to one member of every displaced family has already been withdrawn and in the present scheme the displaced person shall only be given preference in the matter of appointment, when vacancy arises and other things being equal as has been observed by the Honâ??ble Apex Court.

(II) The Honâ??ble Apex Court in case of Steel Authority of India Ltd. vs. Daby Lal Mahto & Ors. reported in [2008 (3) JCR 152 (SC)], at paragraph 11, has been pleased to hold as under:

â??11. Be that as it may, it is now high time to put an end to the litigation. It is an admitted fact that the project was completed way back in 1966 and even after more than 40 years of the completion of the project, people whose

land was acquired for the purposes of the project are still litigating for getting employment. This is not at all warranted. At the relevant time, the intention of the Government was to rehabilitate the landless people whose lands had been acquired and to provide employment to one member of the displaced family so that they could maintain the family so displaced. It was not at all the intention of the Government to distribute this kind of largesse on an indefinite basis. This is nothing but an abuse of the process of Court.â??

(III) The Honâ??ble Apex Court in case of Butu Prasad Kumbhar vs. SAIL & Ors. reported in 1995 Supp.(2) SCC 225 have been pleased to hold

that the person displaced on account of acquisition of their land cannot claim employment, for which the acquisition was made as a matter of right.

Thus, displaced person have no legal right to be appointed in the industry for which their lands acquired, consequently, no writ of mandamus can be issued in their favour.

8. In view of the discussions made in the foregoing paragraphs, this Court is not inclined to accede to the prayer of the petitioner. Resultantly, the writ petition sans merit is dismissed.

Â Â