

(2025) 08 CHH CK 0318
In the Chhattisgarh High Court
Case No : WPS No. 723 of 2017

Sanjay Kumar Banjare

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 19-08-2025

Acts Referred:

Constitution of India, 1950 — Article 166

Citation : (2025) 08 CHH CK 0318

Hon'ble Judges : Rakesh Mohan Pandey, J

Bench : Single Bench

Advocate : Harshmander Rastogi, Mateen Siddiqui, Shubham Bajpai, Anoorup Panda

Final Decision : Dismissed

Judgement

Rakesh Mohan Pandey, J

1. The grievance of the petitioner is that his land was acquired for setting up a Power Plant by the National Thermal Power Corporation (for short, NTPC) at Seepat, District Bilaspur. It is pleaded that at the time of acquisition, the petitioner was assured that in accordance with the Rehabilitation Policy of the State Government, he would be entitled to employment in lieu of his land. Though the respondent No.2 has established and commissioned its Plant, the claim of the petitioner for employment has not been considered.

2. Mr. Rastogi, learned counsel for the petitioner submits that the respondent has placed reliance on Clause No.7 of the Agreement executed between the petitioner and the Management, wherein it is stated that the petitioner, having accepted compensation and rehabilitation, agreed to make no further claim for employment with NTPC under the Rehabilitation Policy. He further submits that the Policy of NTPC cannot prevail over the Rehabilitation Policy of the State Government, which has statutory force. It is contended that though the Agreement mentions the Rehabilitation Policy, the same has not been placed on

record by the respondent. Counsel further argues that the petitioner, being a poor villager, was defrauded by the respondent and despite the assurance of employment, the same has not been fulfilled. He has placed reliance on the decision of this Court in the matter of WPS No. 432 of 2011 on 23/07/2015 parties being Ku. Rattho Bai & Anr. Vs. South Eastern Coalfield Limited Ors., where it is held that the Rehabilitation Policy of the State Government has statutory force and would prevail over any other policy made by the Company or any other local institution.

3. On the other hand, Mr. Panda, learned Counsel would submit that full and final compensation was paid to the land oustees by respondent No.2. He would further submit that a tripartite agreement was entered into between the parties, wherein a decision was taken to prepare a priority list after taking into consideration the area of land of the lands oustees. He would also submit that it was also decided that the names of those land oustees, whose area of acquired land is 01 acre or more would be considered for the priority list. He would state that the area of the acquired lands of the petitioner is less than 01 acre, therefore, his names do not reflect in the priority list. It is also contended that the petitioner knowing very well the conditions of the agreement, executed it in the year 2001. He would further contend that the Rehabilitation Policy of the year 2008 would not attract in the present case as the Agreement was entered into in the year 2001 & 2002, lands were acquired in the year 2000 and the sale deeds were executed by the petitioner in favour of the NTPC. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of Punjab State Electricity Board and Others Vs. Malkiat Singh, (2005) 9 SCC 22 wherein it is held that the scheme giving appointment was only in the nature of concession to eligible candidates which the respondent could not claim as a matter of right having taken compensation amount for his land.

4. I have heard learned counsel for the parties and perused the documents available on the record with utmost circumspection.

5. In the matter of Ku. Rattho Bai (supra) it is held that any guidelines which do not have any statutory flavour are merely advisory in nature. They cannot have the force of a statute. They are subservient to the legislative Act and the statutory rules. Relevant paragraph Nos. 7 and 8 are reproduced herein below:-

“(7) The policy issued by the SECL in the year 2002 makes such provisions, however, a reading of the Policy would indicate that the said policy does not have any statutory force, whereas, the Rehabilitation Policy issued by the State of Madhya Pradesh has been issued for and on behalf of the Governor of Madhya Pradesh. Since there is no legislation covering the said field, the Policy has statutory backing in terms of Article 166 of the Constitution of India. Thus, the Rehabilitation Policy issued by the State Government would prevail upon the Policy of the SECL.

(8) The Supreme Court in the matter of State of Haryana vs. Mahender Singh

and Others reported in (2007) 13 SCC 606 has held thus in para 39 :

"39. It is now well settled that any guidelines which do not have any statutory flavour are merely advisory in nature. They cannot have the force of a statute. They are subservient to the legislative Act and the statutory rules. (See *Maharao Sahib Shri Bhim Singhji v. Union of India*, (1981) 1 SCC 166, *J.R. Raghupathy vs. State of A.P.*, (1988) 4 SCC 364 and *Narendra Kumar Maheshwari v. Union of India*, 1990 (Supp) SCC 440).

6. In the matter of *Malkiat Singh* (supra), the Hon'ble Supreme Court in paragraph Nos. 7 & 8 held as under:-

7. In the light of what is stated above, it is clear that the respondent was not entitled to appointment. The High Court was not right in directing the appellant Board to appoint the respondent to the post of Homoeopathic Physician. During the course of arguments, we asked the learned counsel for the respondent whether the respondent is willing to join in any of the available vacancies even now. On instructions from the respondent, the learned counsel submitted that the respondent is only interested in getting the appointment to the post of Homoeopathic Physician and not any other post covered by the scheme.

8. In view of what is stated above and having regard to all aspects of the matter, we find that impugned order cannot be sustained. Hence, the appeal is entitled to succeed. Accordingly, it is allowed and the impugned judgment is set aside. The writ petition filed by the respondent is dismissed. No costs.

7. Now coming to the facts of the present case, the lands of the petitioner was acquired by the NTPC in the year 2000. The sale deed was executed by the petitioner in favour of the NTPC and full consideration was paid. Condition No. 7/ Clause-7 of the said three Agreements dated 01.12.2001 (two agreements) and 14.07.2002 entered into between land oustees and Management reads as under:-

8. A bare reading of Clause-7 would make it clear that the matter of compensation and employment was finally settled between the parties and there was no occasion for the petitioner to claim employment after 17 years without explaining the delay part.

9. It is not in dispute that the Rehabilitation Policy has a statutory force as the same has been issued by the State, but at the same time, the petitioner entered into an agreement with the NTPC and according to Clause-7 of the Agreement, he waived his right to claim employment against the acquisition of his lands.

10. In the matter *Malkiat Singh* (supra), the Hon'ble Supreme Court has categorically held that the scheme giving appointment is only in the nature of concession to eligible candidates and the land oustees cannot claim it as a matter of right, when they have already received the amount of compensation.

11. The petitioner failed to explain the reason for filing this petition after 17 years of delay. Thus the claim of the petitioner is hit by delay and laches.

12. Taking into consideration the above-discussed facts and the law laid down by the Hon'ble Supreme Court in the matter Malkiat Singh (supra), in the opinion of this Court, no case is made for interference.

13. Consequently, this petition fails and is hereby dismissed. No cost.