

(2020) 01 J&K CK 0022

In the Jammu And Kashmir High Court

Case No : Service Writ Petition No. 137 Of 2008

Subash Singh

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 31-01-2020

Acts Referred:

Citation : (2020) 01 J&K CK 0022

Hon'ble Judges : Sindhu Sharma, J

Bench : Single Bench

Advocate : M. F. F. Quershi

Final Decision : Disposed Of

Judgement

1. A chunk of petitioner's land measuring 10 marlas land was acquired by the Public Health Engineering Department-respondents for construction of reservoir in the year, 1988 and promised that they would provide government employment to one member of the family. On their assurance, the father of the petitioner agreed to donate the land to the respondents. It is submitted that in terms of SRO 181 dated 03.06.1988 an appointment would be given to one of the family members, who is left with 50% or less than their agriculture Land on account of having been acquired by the Government for public purpose and it shall be made without any reference to the recruitment board concerned against a post available at the lowest cadre for which such a person is eligible.

2. Grievance of the petitioner is that the respondents have acquired the land in 1988 but they have not appointed the petitioner till date. It is submitted further that since the respondents have acquired the land in 1988, but the respondents have not considered the case of the petitioner as he has no source of income other than the land. It is submitted that the respondents have neither appointed him nor they paid the compensation for the land acquired by them for construction of reservoir, as such, they are liable to pay compensation at the present market rate prevalent presently or in the alternative, as such, the

petitioner is entitled and eligible for employment in the respondents department.

3. The petitioner in this petition seeks by writ of mandamus commanding the respondents to appoint the petitioner to the post of class-IV employees in terms of SRO 181 of 1988 in lieu of land acquired by the department from the petitioner. In the alternative directions in the nature of mandamus to the respondents to pay compensation to the petitioner for the land acquired by the department at prevailing market price along with damages for use and occupation of the land.

4. The respondents in their objections stated that a piece of land measuring 35 ft x 14 ft is under the use of the department and Ground Water Reservoir of 5000 Galans capacity along with valve pit stands constructed. Respondents had not assured the petitioner for providing government service to him but they admitted that they are prepared to pay the compensation as may be assessed by the Revenue Collector, Udhampur. Since SRO 181 of 1988 stands rescinded by SRO 214 of 1991, the appointment in lieu of land is prohibited.

5. Heard learned counsel for the petitioner and perused the record.

6. Case of the petitioner is that the SRO 181 is rescinded by SRO 214, but any appointment made under the provision of SRO 181 is still continues. He further submitted that petitioner is not covered under SRO 214 on the ground that the land of the petitioner was acquired in the year 1988. Division Bench of this Court, while considering the scope of SRO 181 of 1988 in Bashir Ahmed Lone vs. State of J&K and others, 2009 1 JKJ 121, has stated that SRO is couched in mandatory terms. It talks of granting employment being made to one member without any reference to the Recruitment Board concerned. It is not disputed that the water reservoir has been built on the land donated by the petitioner's father and accepted without there being any acquisition proceedings. However, the petitioner is also silent with regard to his claim in approaching the respondents, as his land has been acquired in the year 1988 and he has approached this Court only in the year, 2008 for seeking employment as well as claiming compensation of his land, as such, there is a huge delay in approaching this Court for his right. However, admitted case of the respondents is that the acquisition of the land of the petitioner was made without following the procedure in terms of the Land Acquisition Act. It seems that they are ready to pay compensation for the same to be assessed by the Collector Land Acquisition, Udhampur.

7. In view of the aforesaid, petitioner is held entitled to compensation on acquisition of his land at the present market rate. He is also entitled to monthly compensation for use and occupation of the land as to be determined by the Collector from the date possession was taken by the respondents till date.

8. This petition stands disposed of in aforesaid terms.