
(2009) 08 DEL CK 0149
In the Delhi High Court
Case No : Writ Petition (C) 2219 of 2008

Suresh Chand

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 25-08-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 40

Citation : (2009) 08 DEL CK 0149

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : D.N. Sharma, for the Appellant; V.N. Koura, Paramjeet Benipal and Munindra Dviedi, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—Land of the parents of the petitioner in Mathura district was acquired in 1973 for establishment of an oil refinery by the Indian Oil Corporation.

2. To provide employment to the displaced families, the State of Uttar Pradesh vide D.O. letter dated 21st September, 1981 had recommended and issued instructions/directions. The said letter made reference to an earlier letter dated 2nd February, 1980 by which it was impressed upon the government department establishments and public sector undertakings that at least one member of the displaced family should be employed in the project on the acquired land as per qualifications. Reference was also made to the another circular dated 5th January, 1981 defining the term 'family' as a displaced owner of the land, his wife, sons, daughters, grand-daughters and grand-sons as defined therein.

3. The petitioner has two more brothers. The eldest brother of the petitioner had applied for and was given employment in the oil refinery set up by the Indian Oil Corporation, in terms of the said letter. It is stated in the writ petition that the petitioner became major and on 8th November, 1995 had applied for

employment as an affected displaced person. The land in question was acquired for oil refinery in 1973, before the petitioner was born.

4. The petitioner states that he had written letters seeking employment in the oil refinery in 1995 and thereafter. The petitioner did not get any response and thereupon filed the present writ petition on 3rd March, 2003. The petitioner claims that he is entitled to appointment under the said letter as disputes and difference had arisen between his parents and the petitioner's mother separated from his father in terms of a document called separation deed, which was executed in 1982. It is however admitted that no decree of divorce was ever passed. It is claimed that on account of the separation deed, the mother's family should be treated as a separate family and he being a family member of the mother's family is entitled to employment in terms of the D.O. letter dated 21st September, 1981 read with other letters mentioned therein.

5. The relevant portion of the D.O. letter dated 21st September, 1981 reads as under:

2. Your attention is also invited to G.O. No. 23-25/73-Karmik-2dt. 2nd February, 1980, wherein attention was invited to the Govt. order and it was impressed that in all the Govt. departments Establishments and Public Sector undertakings, whose land have been acquired, at least one member of such displaced family, be employed in the project installed at the said acquired land as per qualifications without any restrictions on the pay limitations, be employed by the Prospective employer in an appropriate post which may be out-side the purview of Public Service Commission-should be invariably appointed. It has also been stated in the above order that in keeping with the principles of uniformity, that in the matter of setting-up of industries in the State, for which the land may be acquired by the State, in order to implement these order, the Revenue Department, the Officers who have executed acquisition-agreement u/s 40 of land acquisition Act, a provision may be inserted on behalf of the employer that in the concerned industry he will provide employment to at least one member of the displaced land-losing family positively befitting to his qualifications without any restriction on scale of pay. In this context in G.O. No. 23/25/75-Karmik-2, dated 5th January, 1981, in relation to providing employment to one member of the family of displaced family, the Govt. after due consideration, has thus defined the family:

1. Displaced owner (sic) of the land/wife of (sic) the land owner.
2. Son and Daughter (un-married).
3. Son (Married).
4. Grand-Son (Son's Son)
5. Grand Daughter (Son's Daughter-Unmarried)
6. In the event the parents of are solely dependent on him and are fit to be

retained in service, in that event as per the circumstances any one of them may be considered for providing employment.

(emphasis supplied)

6. The D.O. letter dated 2nd February, 1980 stipulates that at least one member of the displaced family should be provided employment in the project, which is set up on the acquired land, as per his qualification. The term 'family' has also been defined so that there is no ambiguity and doubt.

7. Admittedly, the land in question was acquired in 1973 and at that time, the petitioner was not even born and the family consisted of parents of the petitioner and his two brothers. Subsequently, one of the brothers of the petitioner was employed in terms of the said D.O. letter and the policy of the respondent Indian Oil Corporation. In case the petitioner is now given employment, it will mean that two members of the family are given employment. This will not be appropriate and contrary to the principle of uniformity. The petitioner will be given benefit, which others have been denied. The object and purpose of the D.O. letter was to ensure that at least one member of the displaced family get employment as per his qualification in the project on the acquired land and there should be consistency and uniformity in this regard. In case relief is granted to the petitioner, two persons from the petitioner's family will be given employment. The other land owners, whose land were acquired will be discriminated.

8. The argument of two families has to be rejected. There is no decree of dissolution of marriage of the parents of the petitioner. The so called separation deed was prepared in 1982, nearly 9 years after the land was acquired and does not have any sanction of law. The petitioner continues to remain son of his father, whether or not there was any separation between his father and mother.

9. In view of the above, I do not find any merit in the present writ petition and the same is dismissed. I may, however, note that the counsel for the respondent Indian Oil Corporation has pointed out that the D.O. letters mentioned above and policy were withdrawn on 3rd December, 1986. Counsel has also relied upon a full Bench judgment of Allahabad High Court in the case of Ravinder Kumar v. District Magistrate, Allahabad 2005 ALJ 434. However, in view of the reasons given above, I need not go into the said aspects.