
(2018) 04 JH CK 0108
In the Jharkhand High Court
Case No : W.P. (S) No. 6018, 6667 of 2007

USMAN ANSARI

APPELLANT

Vs

STEEL AUTHORITY OF INDIA LIMITED, BOKARO

RESPONDENT

Date of Decision : 17-04-2018

Acts Referred:

Constitution of India, — Article 14, 16, 226

Citation : (2018) 04 JH CK 0108

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : R. S. Mazumdar, Kumar Vaibhav, P. K. Nayak, Indrajeet Sinha, Vijaykant Dubey, Shresth Gautam

Final Decision : Dismissed

Judgement

Pramath Patnaik, J

1. Since the aforementioned writ applications involve common questions of law, therefore, the said writ applications have been heard analogously and

with the consent of the respective counsels, are being disposed of by this common order.

2. In W.P. (S) No. 6667 of 2007, the petitioner has, inter alia, prayed for issuance of a writ in the nature of mandamus commanding upon the

respondents to forthwith complete the process of appointment of the petitioner being displaced persons on compassionate ground as per the Scheme of

the Steel Authority of India Limited, Bokaro Steel Plant and to issue appointment letter in favour of the petitioner since all the formalities at the end of

respondent no. 4, Director, Project land and rehabilitation has been completed by recognizing and identifying the petitioner as displaced persons

belonging to category-1 of the scheme.Â

3. The brief facts leading to filing of the writ petition in W.P. (S) No.6667 of 2007 are that the petitioner is a displaced person whose residential house

including agricultural land were acquired by the State for Steel Authority of India Limited for establishing the Bokaro Steel Plant. It has been stated

that the Respondents have issued a scheme to provide job to such displaced person whose lands and/or residential house were acquired for the

purpose of establishing the Bokaro Steel Plant in which category-1 is for such persons whose residential house as well as the agricultural land were

acquired has been in category-1. The petitioner being displaced person got enrolled in employment exchange and as the respondent no. 1 was in need

of Khalasi, the name of the petitioner was sponsored by the employment exchange. The name of the petitioner was in panel of Khalasi which was

prepared in the year 1991 for appointment on the post of Khalasi and for that an interview was to be held vide notification issued on 05.09.1991.

However, vide order dated 11.05.1995, the respondents have intimated that no appointment will be made on the post of Khalasi out of the notification

issued on 05.09.1991. The petitioner alongwith 381 other displaced persons named in the panel of 1991 preferred a writ application being CWJC No.

2459 of 1996 (R) challenging the order as contained in letter dated 11.05.1995 with further prayer to consider the case for appointment on the post of

Khalasi taking into account that they were displaced persons and the said writ application was allowed vide order dated 25.06.1996 by setting aside

the order contained in letter dated 11.05.1995 declaring the same illegal being violative of Articles 14 and 16 of the Constitution of India. Against the

said order, the respondents Management preferred an LPA No. 161 of 1996 (R) while some of the petitioners of the aforesaid writ application have

also preferred L.P.A. No. 162 of 1996 (R). Both the aforementioned appeals have been disposed of by judgment dated 07.04.1998 by the Division

Bench by directing the Steel Authority to prepare a list containing names of displaced persons in accordance with clause (1) of the proposed scheme

within two months from the date of receipt of the judgment and the list so prepared shall be sent to the Director, Project Land and Rehabilitation for

verification, who shall get the bona fide of the status and claim of such persons verified and submit the report in connection therewith to the Steel

Authority within three months from the date of receipt of the request for verification. The Steel Authority will thereafter hold interview for selection of

suitable candidates and prepare a panel containing the name of displaced persons within two months. It has been further directed that the persons whose names are included in the panel will be placed in two categories according to the criteria already laid down and the persons in category (i) will be given employment first. Thereafter, those who are included in category (ii) will be considered for employment. It has been further directed that the persons who were appointed during the pendency of the writ application prior to grant of stay order on 3.4.1996 will be allowed to continue in services. The persons from 1991 panel, who were issued appointment letter prior to 3.4.1996 but could not join services due to the aforementioned stay order, will also be allowed to join services, subject to verification of their status and fitness. It has been further stated that one of the displaced persons namely Lal Bahadur Dubey preferred a contempt petition being M.J.C. No. 139 of 1999 (R) as the order as contained in Annexure-2 was not complied and the said M.J.C. was disposed of by a consent order dated 1.8.2000, annexed as Annexure-3 to the writ application. In pursuance to the direction as contained in Annexure-3, the petitioner filed representation before the respondents for considering his case of appointment being displaced person, whose name has been sponsored by the employment exchange. The Respondents management took process of appointment pursuant to the direction as contained in Annexure-3 above and while verifying the document found some confusion and therefore, the respondent no. 3 vide letter dated 8.4.2002 sought for a clarification from the respondent no. 4, if the petitioner is in category-1 or in category-2 as per list at sl. no. 409, his status was shown in category-1 and as per the list at sl. no. 381 he was shown in category-2. The respondent no. 4 vide his letter dated 27.07.2004 informed the respondents pursuant to their query as contained in letter dated 8.4.2002 (Annexure-4) that the name of the petitioner including others should be in the list of 207 displaced persons in category-1 but due to some clerical mistake the name of the petitioner and others could not be included which is being rectified by including their names in displaced persons in category-1, therefore, requested to take action for their employment. The respondent no. 4 again vide his letter dated 8.12.2005 made it clear to the respondent no. 2 that he has already rectified the list by including the name of the petitioner in the list of category-1 and recommended for taking suitable steps for providing employment to the petitioner

whose sl. no. is 7 in the said letter vide Annexure-6 to the writ application. It has been further stated that in the meantime, as the respondent-

management is not taking any action with regard to the appointment, the petitioner has filed a contempt case (C) No. 849 of 2005 alongwith one

Dharamdas Ghoshal which ultimately was dropped vide an order dated 25.08.2006 on the ground that there is disputed question of fact involved as to

whether all the posts have been filled up or not. Being aggrieved by the inaction on the part of the respondents in not appointing the petitioner on the

post of Khalasi/attendant, the petitioner, left with no other alternative and efficacious remedy has knocked the door of this Court under Article 226 of

the Constitution of India for redressal of his grievances.

4. Repudiating the contentions made in the writ application, a counter affidavit dated 01.09.2009 has been filed on behalf of the respondent. In the

counter affidavit, it has been stated that the petitioner has got no right to claim appointment in the respondent-Company and he has based his claim on

the judgment delivered in L.P.A. No. 161 of 1996 (R) and L.P.A. No. 162 of 1996 (R) and M.J.C. No. 139 of 1999 (R). The Hon'ble Supreme Court

of India in Civil Appeal No. 1415 of 2007 (Steel Authority of India Ltd.-versus-Debu Lal Mahato and others) was considering the claim of the land-

losers for grant of appointment in Bokaro Steel Plant itself and held that the Scheme was withdrawn way back in 1986 and the same finds no mention

in any of the litigations and the decision to withdraw the scheme was taken by the Government of India. The Hon'ble Supreme Court further held that

to put an end to the controversy in the matter only 970 persons whose names have been included in Category II as per the order dated 7.4.1998 of the

Hon'ble High Court will be considered for appointment, other things being equal alongwith the general vacancy and in view of the aforesaid facts, the

matter has been set at rest by the Hon'ble Supreme Court of India and as such, the matter of appointment of displaced persons in the Bokaro Steel

Plant cannot be reopened and this writ application is liable to be dismissed in limine.Â

5. A counter affidavit on behalf of the respondent no. 4 has been filed, wherein, it has been, inter alia, submitted that the petitioner comes under

Category-1 displaced person and the respondents have acted within the four corners of the Scheme and law, hence allegations levelled, are not legally

maintainable against the respondents.Â

6. A supplementary counter affidavit dated 13.07.2011 has been filed on behalf of the respondents. In the said affidavit, it has been stated that as per

the Scheme ratified by this Court in the judgment dated 7.4.1998/1.8.2000, on 9.4.2002, the D.P.L.R. confirmed the list of 207 persons in Category-1

and out of the said 207 persons, 195 persons were given appointment against notified 150 vacancies and 12 persons were found medically

unfit/unsuitable/ineligible for appointment and thus, the list of 207 provided by D.P.L.R. got exhausted in the category (1) of the list. It has been further

submitted that the name of the petitioner was not figuring in the referred list of Category 1 displaced persons identified by the D.P.L.R. and now the

employment in respect of displaced persons can only be considered in accordance with the judgment dated 5th March, 2008 delivered by the Hon'ble

Supreme Court of India in Civil Appeal No. 1774 of 2008, which was arising out of order passed by this Court in W.P. (S) No. 1415 of 2007. It has

been further stated that from the aforementioned facts, the petitioner is not entitled to any equitable relief and the writ application is fit to be dismissed

in limine.Â

7. In W.P. (S) No. 6018 of 2007, the petitioner has, inter alia, prayed for issuance of an appropriate writ in the nature of certiorari for quashing the

part of the Notification no. Pers/R/2007-693, dated 01.06.2007 issued by the respondent no.3 and further for a direction upon the respondents to get

the matter investigated by the Central Bureau of Investigation.

8. In W.P. (S) No. 6018 of 2007, the facts in brief are that the ancestral lands of the petitioner was acquired by the Steel Authority of India Ltd. and

he was placed in category no. 1 as his land and house was acquired. Vide letter dated 25.09.2006, issued by respondent no. 1, addressed to the

Director, Project, Land & Rehabilitation (Respondent No. 4), it was informed to send details regarding originally displaced families, so that service

may be provided to the displaced persons. The Respondent no. 3 vide letter dated 31.5.2007, addressed to the Assistant Director, Sub-Regional

Employment Exchange, BSL, whereby the letter dated 23.09.2006 has been cancelled and withdrawn, although no reason was assigned for doing so.

It has been further stated that vide letter dated 27.06.2007, the petitioner was informed that his name has been sent to the Employment Exchange for

the post of Trainee Plant Attendant and against the Advertisement No. BSL/R/2007-05, he was asked to fill up the form of the next page of the letter

dated 27.06.2007. Vide letter dated 1.6.2007, addressed to the Assistant Director (Employment) SubRegional Employment Exchange, Bokaro Steel

City, the respondent no. 3 has informed about other details. It has been further stated that the S.A.I.L. had to provide service in Class IV posts only to

those persons whose lands were acquired but Annexure-5 was issued only to appoint outsider whose lands were never acquired or did not produce

requisite qualifications for the same, although the parameter annexed with Annexure-1 clearly clarified check-list for ascertaining the bona fide of the

candidates, whereby only those persons will be given appointment whose lands were acquired. The petitioner, left with no other alternative and

efficacious remedy, has been constrained to approach this Court under Article 226 of the Constitution of India for mitigating his grievances.

9. Learned counsel for the petitioner has strenuously urged that when the Company was established and when the land as has been acquired by the

State Government then an Agreement was executed between the SAIL and State of Bihar that all the appointments in Class IV posts will be from the

family of the displaced persons and the Management has cancelled the notification vide Annexure-5 only to adopt mal-practices and depriving the

real claimant whose lands were acquired and the management had asked the employment exchange not to send further names of the displaced

persons which clarifies that illegal gratification is being given to provide job to the outsider and strangers to the SAIL. Learned counsel for the

petitioner by referring to a letter bearing No. 345, dated 8.12.2005, written by the Director, Project and Rehabilitation, Bokaro to the Manager

(Personnel and Appointment), Bokaro Steel Limited as contained in Annexure-6 of W.P. (S) No. 6667 of 2007 further submits that in spite of

recommendation being made for the appointment of the petitioner, he was never given any appointment nor his name was placed in the list containing

names of 970 persons of category II and as such, employment is being not given to the petitioner either in category I or II despite of the fact that he is

Category I displaced person. Â Â

10. Repudiating the contentions made in the writ application, a supplementary counter affidavit has been filed by the respondent nos. 1 to 4 and 5 in

pursuant to the order dated 10.1.2008, wherein, it has been submitted that the Employment Exchange has forwarded the name of the petitioner as a displaced person at Sl. No. 437/06 and pursuant to which further necessary details were sought from the petitioner vide letter dated 27.06.2007. The petitioner applied for the post of Plant Attendant and has appeared in the written examination alongwith other eligible candidates in which petitioner roll number was assigned as 376116 and after result of the written examination, the successful candidates were issued interview letters and the petitioner could not get the cut off marks in the written examination and as such interview letter could not be issued to the petitioner and thus petitioner has been declared as unsuccessful candidate. It has been further stated that the panel has already been prepared and appointment letters have already been issued to the successful candidates and the petitioner is wrong in saying that his name has not been recommended as displaced person and the displaced person has not been called for selection process and the preference has been given to the displaced persons and majority of the persons selected belongs to the displaced persons category.Â

11. A counter affidavit dated 12.10.2017 on behalf of the respondent nos. 4 and 5 has been filed, wherein, it has been, inter alia, stated that the

petitioner has not mentioned the name of his ancestor, khata no., plot No., Mouza of land and Award No. of acquired land and no document has been

filed by the petitioner in support of his statement and the present writ petition is not maintainable in the eye of law and it is fit to be dismissed.

12. Apartfrom reiterating the submissions made in the counter affidavit, learned counsel for the Respondents has assiduously submitted that at one

point of time the list containing Category I persons got exhausted and thereafter list containing names of 970 persons of Category II was prepared

which as per the order of the Honâ??ble Supreme Court is to be acted upon in the matter of giving appointment. During course of hearing, learned

counsel for the respondents has also pointed out that in the said letter (Annexure 6) name of the petitioner has not been included in the list containing

970 persons but the letter (Annexure 4) bearing no. BSL/Pers/R/2002-2002 dated 8.4.2002 does indicate that name of the petitioner does not find

mention at Sl. No. 381 of Category II.Â Â

13. In support of his contentions, learned counsel for the respondents has

referred to the following citations :- Â 2004 (4) JCR 526 (Jhr), Steel

Authority of India Limited, Bokaro Steel Plant-vs.-Jamuna Prasad Mahto

14. Having given my anxious consideration to the rivalized submissions and on perusal of the records, this Court is not inclined to accede to the reliefs

sought for by the petitioners in both the writ petitions in view of the reasons stated hereinbelow : -

(i) In the aforesaid writ applications the petitioners have come up mainly for appointment as land oustee as per the policy of the respondent company

under rehabilitation and resettlement policy in vogue. The provision of employment is always subject to utility of land and the extent of land acquired.

From perusal of records, it appears that from the date of acquisition of the land, many decades have elapsed. So far as providing employment at this

belated stage is concerned, the case cannot be kept open for indefinite period of time and therefore, the case of the petitioner cannot be considered at

this distance of time for employment as land oustee or as displaced person.

(ii) The view of this Court gets fortified by the decision of the Honâ??ble Apex Court reported in [2008 (3) JCR 152 (SC)] (Steel Authority of India

Ltd. vs. Daby Lal Mahto & Ors.) wherein the Honâ??ble Apex Court at paragraph 11, has held as under:

Â 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??

15. In view of the reasons stated in the foregoing paragraphs, the reliefs sought for by the petitioners, do not warrant interference by this Court.

Accordingly, the aforementioned writ applications [W.P. (S) Nos.6667 with 6018 of 2007] sans merit, are hereby, dismissed.Â

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