
(2023) 09 CHH CK 0061

Chhattisgarh High Court

Case No: Writ Petition (S) No. 6342 Of 2022

Kshipra Upadhyay

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision: Sept. 21, 2023

Acts Referred:

Constitution of India, 1950 " Article 14, 21, 226, 309#Chhattisgarh Civil Services
(Extraordinary Pension) Rules, 1963 " Rule 10, 11, 12, 12(2)(i), 12A

Citation: (2023) 09 CHH CK 0061

Hon'ble Judges: Sanjay K. Agrawal, J; Radhakishan Agrawal, J

Bench: Division Bench

Advocate: Sourabh Sahu, Amrito Das, Ashish Tiwari, Raj Kumar Gupta, Parth Shrivastava

Final Decision: Dismissed

Judgement

1. The petitioner has filed this petition under Article 226 of the Constitution of India against order dated 13.01.2012 (Anneuxre P/1) issued by

Respondent No.5, whereby the the claim of the petitioner for grant of appointment on the basis of acquisition of his house and land, has been rejected

by the S.E.C.L. authorities holding that there is no mention of house in the sale deed executed in favour of the petitioner.

2. Brief facts of the case, as projected by the petitioner, are that the petitioner is land oustee of village Katgodi, District Korea, whose land has been

acquired by S.E.C.L. under Section 9 of the Coal Bearing Areas (Acquisition & Development) Act, 1957. The S.E.C.L. has constructed buildings and

shaft of Charcha East Colliery on the land of the petitioner and other land oustees. The name of the petitioner finds place at Sl. No. 29 of the

acquisition chart (Annexure P/2) prepared for acquisition of land. The petitioner's land bearing Kh. No.1449/5, area 0.25 hectares, situated at

village Katgodi has been acquired vide order dated 02.06.1995 passed by the land Acquisition Officer-cum-Collector, Korea. In the aforesaid land,

house of the petitioner was also there along with the land, which is evident from copy of Khasra Panchshala (Annexure P/3). After acquisition of land

of the petitioner, the compensation of the land has been fixed/accesses and accordingly, all the land oustees, whose land have been acquired, were

given compensation as per their entitlement. As per the Rehabilitation Scheme/Policy (hereinafter referred to as 'the Policy') of the State

Government (Annexure P/4), in addition to compensation, employment to the land oustees were also provided and 14 persons were given employment

in the S.E.C.L. Since, the petitioner was not given adequate compensation and further he was not given employment as per the Policy, he filed

representations dated 15.10.1996, 11.12.1998, 10.02.2000, 02.06.2001 and 13.05.2002 (Annexure P/5 colly) to the Chief General Manager, S.E.C.L.,

Baikunthpur Area. Copy of the representation dated 16.05.2002 (Annexure P/6) was also given to the Chief Minister, State of C.G., Chairman,

Human Rights Commission, Raipur, and to the Collector, Korea. Thereafter, the State Government issued a memo to the Collector for taking

necessary action, in respect of the representation of the petitioner. The Collector, Korea, has enquired about the matter and arrived at finding that a

house was also situated over the acquired land of the petitioner, but he was not paid adequate compensation and employment as per circular dated

25.12.1991 of the Ministry of Rehabilitation, Government of Madhya Pradesh. Thereafter, the Collector wrote a memo dated 02.11.2002 (Annexure

P/7) to the Chief General Manager, S.E.C.L., Baikunthpur, for giving adequate compensation and employment to the petitioner within a week. When

nothing was done for a month, the Collector-cum-Land Acquisition Officer further wrote a letter (Annexure P/8) to the Chief General Manager,

S.E.C.L., Baikunthpur, to take immediate action in the matter of the petitioner and to inform him till 06.12.2002. The Land Acquisition Officer " cum

" Additional Collector further wrote a letter dated 19.12.2002 (Annexure P/9) to the Chief General Manager, S.E.C.L. Baikunthpur to provide

employment to the petitioner.

3. The S.E.C.L. has informed the petitioner vide Annexure P/10 that he is not entitled for employment as per rules. Thereafter, the Land Acquisition

Officer " cum " Collector, Korea, vide its order dated 22.03.2004 (Annexure P/11), has revised the compensation for the land of the petitioner

holding that according to the report of the Sub-Divisional Officer (Revenue), Baikunthpur, and on the basis of Khasra Panchshala of the years 1993-

94, 1995-96, 1999-2000, there is mention about house situated over the land and therefore, the compensation for the house is required to be given and

accordingly, compensation for the house was also awarded and total sum of Rs.25,212/- was awarded to the petitioner, including the compensation

against the house. The Land Acquisition Officer-cum-Collector, Korea, has further wrote a letter dated 26.06.2004 (Annexure P/12) directing the

S.E.C.L. to provide employment to the petitioner. The Deputy Chief Personnel Manager, Baikunthpur Area, vide its letter dated 20.08.2004

(Annexure P/13) has informed the petitioner that he is not entitled for employment as per Rule 3 (a) of the Rehabilitation Scheme. Thereafter, the

Collector, Korea, further wrote a letter dated 04.07.2005 stating that the petitioner is entitled for compensation as his case comes under Para 3 (c) of

the Rehabilitation Scheme. Further, the Land Acquisition Officer directed the S.E.C.L. to provide employment to the petitioner as per his entitlement

under para 3 (c) of the Rehabilitation Scheme. Thereafter, when nothing was done in the matter, an another letter dated 22.01.2007 (Annexure P/14)

was sent by the Collector to the Chairman-cum-Managing Director, S.E.C.L., Bilaspur, for giving employment. When even after the aforesaid nothing

was done in respect of employment of the petitioner in respondent/S.E.C.L. office, the petitioner sent a letter dated 28.03.2007 (Annexure P/15) to the

Chief General Manager, S.E.C.L., Baikunthpur Area, for giving employment to him. Thereafter, the Chief General Manager, S.E.C.L., Baikunthpur

Area, also wrote a letter dated 31.03.2007 (Annexure P/16) to the Deputy Chief Manager recommending the case of the petitioner for employment.

Further case of the petitioner is that similarly situated persons, whose land and house have been acquired, have been given employment which is

evident from the declaration (Annexure P/17) of the Naib-Tahsildar along with list of land oustees, but the petitioner has not been given employment.

The authorities of the S.E.C.L. have given employment to the persons, which is evident from document (Annexure P/18), from whom very less area

of land was acquired in the year 1998-99, the land of village Pandavpara has been acquired and accordingly compensation and employment were

given to the beneficiaries.

4. Being aggrieved by the act of the respondents/S.E.C.L. authorities, the petitioner moved a writ petition bearing W.P. (S) No. 6021/2007 before this

Hon'ble Court, wherein vide order dated 11.09.2009 (Annexure P/19), the respondent/S.E.C.L. authorities were directed to consider the

representation of the petitioner in accordance with Rehabilitation Policy and the petition was disposed of with the aforesaid direction. Thereafter, on

25.09.2009, the petitioner filed detailed representation (Annexure P/20) before the S.E.C.L. authorities. Thereafter, when the matter of the petitioner

was neither taken for consideration by the respondents/S.E.C.L. nor the representation filed by the petitioner was decided, the petitioner again moved

a representation dated 04.08.2011 (Annexure P/21). Thereafter, the petitioner filed a contempt petition bearing Contempt Case (C) No.362/2011

before this Court and this Court on 17.10.2011 directed the S.E.C.L. to decide the representation within three months. Thereafter, in the month of

January, 2012, the petitioner received a communication from the S.E.C.L., according to which, the proposal of employment of the petitioner in

S.E.C.L. has been re-examined and gave its finding that since in the sale deed, there is no mention of house acquired from the petitioner, therefore,

the petitioner is not entitled for employment. Against the said communication, on 23.01.2012, the petitioner again filed representation (Annexure P/23)

but the same was not decided, therefore, the petitioner has further moved a representation (Annexure P/24) on 11.05.2012 and lastly the

representation of the petitioner was decided vide letter dated 08.01.2013, according to which, the General Manager, S.E.C.L., has stated that

according to the communication S.E.C.L./B.S.P./M.P./BKP/13/08 received on 04.01.2013, the petitioner is not entitled for employment in view of

criteria of Clause 3 (c) of the M.P. Rehabilitation Policy, 1991. Thereafter, the petitioner obtained copy of report dated 31.05.2012 (Annexure P/25) of

Committee of respondent/S.E.C.L. authorities, which was constituted for deciding the rights of the petitioner regarding his claim for employment. The

Committee, after considering various documents has held that there was a
Kaccha Ghar, on the land acquired by the S.E.C.L. Company.

Hence, the petitioner has filed this petition seeking following relief (s) :-

10.1. That the impugned order dated 13.01.2012 passed by the respondent No.5 may kindly be quashed.

10.2 That, the respondents may kindly be directed to consider the case of the petitioner for employment and to give him employment.

10.3 That, the respondents may further be directed to consider the case of the petitioner for employment within a specified period.

10.4 Any other relief, deemed fit in the present facts and circumstances of this case may also be awarded to the petitioner.

5. Learned counsel for the petitioner submits that the respondents specially respondent Nos. 3 to 6 are under obligation to give employment to the

petitioner under the Policy of State Government and also under the guidelines prescribed by them. Action of the respondents specially S.E.C.L.

authorities is arbitrary, malafide and discriminatory as they have provided employment to the various land oustee whose land has been acquired, but

the respondents/ S.E.C.L. authorities are not providing employment to the petitioner. As per Para 3 (c) of the Policy, land oustees, whose house has

been acquired, is entitled for employment and admittedly the house of the petitioner has been acquired. Learned counsel further submits that the Land

Acquisition Officer-cum-Collector, Korea, has enquired about the matter and has found that the house of the petitioner has been acquired. When

compensation was given for the house of the petitioner, then there remains nothing to say that the petitioner is not entitled for employment on

acquisition of his house and land. The Respondent No.5 "the Chief General Manager, S.E.C.L., Baikunthpur Area has also recommended the case

of the petitioner for employment. That apart, the Committee constituted by the S.E.C.L. has also recommended for employment to the petitioner on

the basis of various documents including the Khasra Panchshala, which clearly demonstrates the fact that the house was situated on the land of the

petitioner. However, despite the recommendations of the Land Acquisition Officer-cum-Collector, Korea, and the Chief General Manager, S.E.C.L.,

Baikunthpur Area, the denial of employment to the petitioner is not justifiable. Learned counsel also submits that the petitioner is lawfully entitled to

get the employment against the acquisition of house and land, but the authorities are illegally denying his claim. Several other persons were given

employment even their less area of land has been acquired by the authorities and in some cases the persons who are not entitled have also been given

employment. The authorities have decided the case of the petitioner not in accordance with the order dated 11.09.2009 (Annexure P/19). Thus, the

respondents S.E.C.L. authorities may be directed to give employment to the petitioner against his land and house acquired by the S.E.C.L., in

accordance with the Policy.

6. Learned counsel for State/respondent Nos. 1 and 2 stated that the land of the petitioner has been acquired under the Coal Bearing Areas

(Acquisition and Development) Act, 1957 by the respondent No.3 to 6/S.E.C.L. and as per the Act of 1957, the respondent/S.E.C.L. company has to

follow the rehabilitation programme for settlement of the villagers whose lands were acquired by the Company and the SECL/ Company is bound and

oblige to comply with the rehabilitation programme. Even otherwise, as per the rehabilitation programme, the respondent/Company is bound to deliver

the compensation in terms of money or employment. The petitioner has not claimed any relief from the State Government, as such, the petition so far

as it relates respondents/State deserves to be dismissed.

7. Learned counsel for respondent Nos. 3 to 6 submits that the present petition is not maintainable and liable to be dismissed on the ground that the

SECL authorities have already decided the issue of the petitioner in respect of the employment against acquisition of land. The petitioner has not

fulfilled the criteria in respect of employment against the acquisition of land, house because as per 3 (a) of the Rehabilitation Scheme, 1991 provides

that "1/3rd of the total land of the petitioner should be acquired for the purpose of employment."

And as per

Scheme, the total land of the petitioner in the year 1995 was 4.14 hectare and the respondents authorities acquired 0.25 hectare land, therefore, the

petitioner has not fulfilled the criteria as prescribed and he is not entitled for the employment. Learned counsel further submits that on 06.12.1996, the

Nayab Tahsildar published the list for entitlement and non entitlement of the applicants and as per the list, the name of the petitioner is mentioned at

Serial No. 3, whereby the application of the petitioner rejected only on this ground that the authority acquired the land of the petitioner less than 1/3rd

of the total land, therefore, the petitioner has not fulfilled the criteria and not entitled for the employment & the petition filed by the petitioner deserves

to be dismissed with cost. Learned counsel also submits that the petitioner is also not entitled for any employment under Clause 3 (c) of the Policy,

therefore, also this petition is liable to be dismissed. In compliance to the order dated 11.09.2009 passed in W.P.(S) No.6021/2007, the respondent

authorities have duly considered the representation of the petitioner and passed the in accordance with law, as such, the instant petition is liable to be

dismissed. In support of his submission, he placed reliance on the decision of this Court in the matter of Surjit Singh Sahota Vs. S.E.C.L. & Ors.

8. Heard learned counsel for the parties and perused the material on record.

9. It is not disputed in this case that the land of the petitioner has been acquired by the respondent/S.E.C.L. authorities for construction of building and

shaft of Charcha East Colliery and in earlier litigation bearing WP(S) No.6021/2007, this Court by order dated 11.09.2009 disposed off the petition of

the petitioner making certain observation. For ready reference, the observation made by this Court in paras 3 to 5 are reproduced herein as under :-

“3. Be that as it may, Shri Koshy, learned counsel for the respondents 3 to 5 fairly submits that the case of the petitioner shall be

considered afresh by the Coal authorities in accordance with the rehabilitation policy having regard to the letter dated 29th / 31st March,

2007 (Annexure P/16) written by the Chief General Manager, Baikunthpur Area to the Deputy General Manager (Man Power), S.E.C.L.

Bilaspur.

4. In view of the foregoing, according to Shri Prasad, nothing survives for adjudication at this stage.

5. Accordingly, without expressing any opinion on merit of the case, the petition is disposed of. If the petitioner desires to file a separate

representation, he may do so.”

10. Further, when the representation of the petitioner was not decided in view of observation made in WPS No.6021/2007, the petitioner filed petition

bearing Contempt Case (C) No. 362/2011, wherein this Court by order dated 17.10.2011, observed as under :-

Though, no specific direction was issued by the Court, in view of the statement made before the Court by the counsel for respondents 3, 4 and 5 that

the representation of the petitioner shall be considered afresh by the Coal authorities, the petition was finally disposed of.

Therefore, the representation of the petitioner is required to be decided by the concerned authorities. In case, no decision is taken on the

representation of the petitioner within a period of three months from the date of receipt of copy of this order, the petitioner would be at liberty to

revive the petition.

11. In both the aforesaid petitions, the respondent/S.E.C.L. authorities have nowhere raised any objection that the persons are entitled for employment

under the Policy whose more than 1/3rd of agricultural land & residential land has been acquired by the S.E.C.L. and they simply made submission

that the petitioner's claim shall be considered afresh by the Coal authorities in accordance with Policy. It transpires from the record that the

petitioner has filed copy of order of Land Acquisition Officer and several representations to the authorities, which demonstrates the fact that one

house was also situated on the land of the petitioner, which was acquired by the respondent/S.E.C.L. authorities. That apart, the Committee

constituted by the respondents/S.E.C.L. authorities to consider the claim/grievance of the petitioner, have recommended for employment to the

petitioner in its report (Annexure P/25). The relevant portion of the report is extracted herein below, which reads thus :-

" Since compensation of both house and land has been made to Sri Rajwade, the Committee is of opinion that there was a "Kaccha

Ghar" on the land acquired by the company. Hence the recommendation of the Collector referring the relevant clause regarding eligibility

for providing employment to Sri Chandra Pratap Rajwade may be accepted.

Submitted to the General Manager Baikunthpur Area for his kind perusal and for further necessary action.

12. Even after the recommendation of the Committee constituted to consider the claim of the petitioner for employment, the respondents/S.E.C.L.

authorities did not consider the claim of the petitioner and by the impugned order dated 08.01.2013 (Annexure P/1), the claim of the petitioner was

rejected by the S.E.C.L. authorities holding that the petitioner is not entitled for employment under Section 3 (c) of the Madhya Pradesh Rehabilitation

Policy, 1991.

13. On 25.09.1991, the Government of Madhya Pradesh has formulated/issued a policy (Annexure P/4) for rehabilitation of persons displaced by

mineral project. The Clause 3 (c) of the said Policy provides as under :-

14. On 13.01.2012, the General Manager, S.E.C.L., Baikunthpur Area, re-examined the claim of the petitioner for employment in S.E.C.L. and issued

a letter (part of Annexure P/1) to the petitioner, whereby the claim of the petitioner for employment has been rejected citing the Clause 3 (c) of the

Policy. The relevant portion of the letter is extracted herein below, which reads thus :-

“Neither in the sale deed of purchase of land by you there is any mention of house in the acquired land nor there is any mention of the

House when the land was acquired by SECL vide Award No.1/67/94-95 dated 23.05.1995.

On the above background, the proposal has been re-examined and it has been observed that you are also not entitled for employment as

land oustee as per criteria 3 (ga) of MP R&R 1991.

15. The petitioner has filed a document (Annexure P/3), which is list of land oustee, wherein the name of the petitioner is at Sl. No.29. The said list

clearly demonstrates the fact that in Column No.11 it is written that “Compensation of House, Well and Tree” & in Khasra Panchshala at

Column No.12, 15 and 16, the entry of house is also there, and accordingly, the compensation has been assessed against agricultural land and house.

Clause 3 (c) of the Policy, on the basis of which, the respondents/S.E.C.L. has rejected the claim of the petitioner for employment clearly mentions

that “the entire agricultural land and/or residential land. As such, the basis made for rejecting the claim of the petitioner for employment i.e. Clause

(c) of the Policy has no leg to stand as the petitioner’s agriculture land and house, both have been acquired by the respondent/S.E.C.L. authorities.

It is surprising to note here that the respondent/S.E.C.L. authorities have denied the claim of the petitioner on the ground of non mentioning of any

house in the sale deed, rather the Land Acquisition Officer and in Khasra Panchshala there is clear mention of house situated on the land acquired by

the S.E.C.L., and after passage of many years, the respondent/S.E.C.L. authorities denied the claim of the petitioner for employment on this ground

that the petitioner's house was "Kaccha House".

16. It is also not disputed by the respondent/S.E.C.L. authorities that when the Land Acquisition Officer passed order dated 22.03.2004 (Annexure

P/11) granting additional compensation of Rs.25,212/- towards land, house and tree on this ground that in acquired land there is residential house of the

petitioner also, respondent/S.E.C.L. authorities did not raise any objection and awarded compensation to the petitioner. Therefore, after passage of

several years the objection of respondent/S.E.C.L. authorities that the petitioner is not entitled for employment in view of Clause 3(A) of the Policy is

not justified and has not leg to stand.

17. In this case, the petitioner has been filing/moving several representations since 1996 before the respondent/S.E.C.L. authorities, who denied his

claim for employment. The petitioner has also filed writ petition bearing W.P.(S) No.6021/2007 before this Court but the respondent/S.E.C.L.

authorities while contesting this case did not raise any objection before this Court that the petitioner is not entitled for employment under Clause 3 (A)

of the Policy. It transpires from order dated 11.09.2009 (Annexure P/19) passed in WP(S) No.6021/2007 that this petition was filed on this ground that

his claim is under Clause 3 (c) of Policy, which is required to be considered in case of acquisition of the residential land, however, the

respondent/S.E.C.L. authorities very cleverly not objected before this Court and on the submission of respondents/S.E.C.L. that they shall consider the

claim of the petitioner in accordance with the rehabilitation policy having regard to the letter dated 29th /31st March, 2007, the petition was disposed

of. It is pertinent to mention here that in letter dated 29th/31st March, 2007, the Chief General Manager, Baikunthpur Area, indirectly recommended

for employment to the petitioner. If respondents/S.E.C.L. authorities had any objection about the claim of the petitioner particularly in view of Clause

3(a) or 3 (c) of the Policy, they had to advance their submission before this Court in this regard but after passage of more than two decades the

respondents/S.E.C.L. authorities again objected the claim of the petitioner on this ground that the petitioner's house was "Kaccha House". At

first, the respondents/S.E.C.L. was denying that there is no house situated on the land of the petitioner but later they denied the claim of the petitioner

on the ground that the house was "Kaccha House".

18. It is to note here that Clause 3 (c) of the Policy clearly speaks about "Residential land" and there is no mention of about "Kaccha or

Pucca house" & once by order dated 22.03.2004 (Annexure P/11), it was clarified/decided by the Land Acquisition Officer that residential house of

the petitioner has also been acquired then the objection of the respondent/S.E.C.L. that there was no house on the land of the petitioner is not

accordance with law. It appears to be an arbitrary action of the respondents/S.E.C.L.

19. The case law relied upon by learned counsel for respondents/S.E.C.L. authorities in the matter of Surjit Singh Sahota (supra) would be of no

helpful for the reason that the petitioner has been contesting his claim by way of representations and by way of filing writ petition bearing WP(S)

No.6021/2007 and also Contempt Case (C) No.362/2011, as such, it cannot be said that the instant petition is time barred.

20. In view of the foregoing discussion, the petition is allowed. The petitioner, at the time of filing petition, was aged around 44 years and by now he is

aged around 54 years. Thus, the respondents/S.E.C.L. authorities are directed to give employment to the petitioner or his family member, as the case

may be, as per Rehabilitation Policy on the ground that petitioner's residential house was acquired by the respondents/S.E.C.L. authorities, within

three months from the date of this order.