

(2008) 09 JH CK 0007
Jharkhand High Court
Case No: None

Santosh Kumar Dubey		APPELLANT
	Vs	
Steel Authority of India Ltd. and Others		RESPONDENT

Date of Decision: Sept. 24, 2008

Acts Referred:

- Land Acquisition Act, 1894 - Section 12

Citation: (2009) 1 JCR 110

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R.R. Prasad, J.

This writ application is directed against the order dated 8.3.2003 (Annexure 13) passed by Deputy General Manager

(DNW), Bokaro Steel Plant, Bokaro, respondent No. 2 whereby the petitioner was dismissed from the service of the Bokaro Steel Plant,

Bokaro. Further prayer is to direct the respondent to reinstate the petitioner with immediate effect.

2. The case of the petitioner is that late Jatadhari Pandey and Damurdhari Pandey, both sons of late Sridam Pandey were having landed properties

situated in Mouza Patharkotha which were acquired by the Steel Authority of India Limited for the purpose of establishing Bokaro Steel Plant at

Bokaro. Accordingly, a joint award in terms of Section 12(2) of the Land Acquisition Act was passed in favour of Devendra Pandey and his

brothers, all sons of Damurdhari Pandey and Jathadhari Pandey who had only one daughter, namely, Smt. Jyotibala Pandey (mother of the petitioner) who was living with her father for taking care of him. As the land was acquired for setting up Bokaro Steel Plant, the persons whose lands were acquired, got displaced and under the scheme of giving employment to the displaced persons, a survey was conducted by the Director, Project Land and Rehabilitation (DPLR) under the direction of the then Government of Bihar to identify families, who have been displaced on account of land being acquired.

3. The petitioner was also found to be a member of the displaced family and a certificate with that respect bearing No. 297 dated 15.2.1971 was issued to the petitioner and hence, his name as well as names of other displaced persons were sent by the then Director, Project Land and Rehabilitation to the employment exchange, Bokaro Steel City under a list in which petitioner's name finds mentioned at serial No. 91. The employment exchange, in turn, forwarded the name of the petitioner and others to the authority of Bokaro Steel Limited for appointment to the post of khalasi. On that basis, the petitioner was called for interview by the Selection Committee to which the then Director, Project Land and Rehabilitation, who had issued the displaced certificate, was also one of the members. The petitioner having been found suitable, was appointed for the post of khalasi and was allowed to join on 15.4.1973. Further case is that when the petitioner had put in service for about 28 years, a letter dated 21.9.2001 (Annexure 7) was received by the petitioner whereby the petitioner was called upon to show cause as to why not disciplinary action be taken against him on account of misconduct as he had obtained employment in Bokaro Steel Plant by virtue of displaced certificate No. 297 dated 15.2.1971 which, according to the Director, Project, Land and Rehabilitation, is forged on account of the fact that displaced certificate No. 297 relates to one Rashik Mahto of village Sanjori. On getting said notice, the petitioner submitted an application making request to supply certain information as the charge mentioned under Annexure 7 according to the petitioner was quite vague. But the authorities instead of supplying

the said information, asked the petitioner to submit his reply which the petitioner submitted. However, the same was not found to be satisfactory

and hence, a proceeding was initiated. Thereupon the petitioner filed his written statement stating therein that displaced certificate issued to the

petitioner bears the number 297 dated 15.2.1971 whereas displaced certificate issued to Rashik Mahto bears the number 227 dated 17.11.1970

and that relates to village Sanjori whereas in the case of petitioner, certificate of displacement relates to village Patherkatta and, therefore, enquiry

officer was requested to get it verified.

4. Further plea taken was that the genuineness of the displaced certificate was also doubted as, according to the respondent, the petitioner is not

displaced person of the family of Devendra Nath Pandey but that assertion was quite incorrect as the petitioner has been shown to be displaced

person, under the report submitted after making survey of the village, to be members of the family of Devendra Nath Pandey and, therefore,

request was made to get the said fact verified. But, according to petitioner, enquiry officer in course of proceeding did not make any enquiry with

respect to aforesaid facts and submitted its report holding the petitioner guilty for the charges only on the basis of letter received from Director,

Project, Land and Rehabilitation mentioning that the petitioner's name does not appear in the family chart of village Patherkatta and that petitioner

failed to explain satisfactory about the discrepancies in between displacement certificate relating to the petitioner (Ext. MD-1) and the displacement

certificate to Rashik Mahto (Ext. DD-1). On submission of the enquiry report, finding the petitioner guilty for the charges, the disciplinary authority

asked for second show cause which was submitted stating therein that enquiry officer without considering the entire evidences (documentary or

otherwise) brought on record has submitted his report which is quite illegal. But in spite of that, disciplinary authority, respondent No. 2 passed the

Impugned order by which the petitioner was dismissed from the service.

5. Being aggrieved with the said order, this writ application has been filed.

6. A counter affidavit has been filed wherein same stand has been taken that petitioner was never the displaced person as he was not the

member of displaced family of Devendra Nath Pandey and still he secured appointment on the forged displacement certificate and, therefore,

Director, Project, Land and Rehabilitation brought the said fact to the notice of the department, vide its letter No. 75 dated 4.3.2002. Thereupon a

proceeding was initiated for having secured the job under the forged displacement certificate and on enquiry said fact was established and, as such,

petitioner is not entitled to any relief.

7. Having heard learned Counsel appearing for the parties, it appears that a departmental proceeding was initiated on the charges given below:

i. Shri Santosh Kumar Dubey has obtained employment on the basis of Displaced Certificate No. 297 dated 15.2.1971. DPLR has informed that

the certificate is forged and the displaced certificate No. 297 was issued to Shri Rashik Mahto of village Sanjori.

ii. DPLR has informed that the name of Shri Santosh Kumar Dubey does not appear in the family register.

8. On being charged, the petitioner submitted his written report making specific plea that displacement certificate No. 297 dated 15.2.1971 (which

has been annexed in this application as Annexure 4) relates to the petitioner whereas displacement certificate of Rashik Mahto of village Sanjori

bears No. 227 dated 17.11.1970 (Annexure 6) and hence, request was made to get it verified from the concerned authority but no enquiry seems

to have been made on it, still the finding was given by the enquiry officer that the petitioner failed to put in satisfactory explanation with respect to

discrepancies in between those two certificates but the explanation given itself shows that displaced certificate concerning to Rashik Mahto never

bears the number as 297 dated 15.2.1971 rather it has got different number and had also been Issued on different date and not only that the

petitioner's displaced certificate relates to village Patherkatta whereas Rashik Mahto seems to be the resident of village Sanjori and, therefore, the

finding recorded by the enquiry officer is not only bad rather it can be said to be perverse. Further I do find that the charge was levelled on the

basis of a letter No. 75 dated 4.3.2002 received from DPLR that the name of the petitioner does not appear in the family chart of village

Patherkatta. In order to meet this charge, the petitioner seems to have made request to the enquiry officer to supply the document but that never

seems to have been supplied. However, the petitioner took the plea that after making survey of the family of the displaced person of village

Patherkatta, a report was submitted along with the chart showing name of the petitioner as the displaced person of the family of Devendra Nath

Pandey which chart has been annexed with this application as Annexure 3 and request was made to get it verified from the original but without

making any enquiry, report was submitted by the enquiry officer that petitioner, as per the report of DPLR dated 4.3.2002, is not a displaced

person of village Patherkatta which finding In view of the document placed before the enquiry officer showing the petitioner as a displaced person

is quite bad. Moreover, DPLR, on whose letter finding arrived at that the petitioner is not a displaced person, was never examined by the enquiry

officer nor such letter was ever supplied to the petitioner and, therefore, departmental enquiry certainly gets vitiated on account of that fact.

Furthermore, findings recorded by the enquiry officer is unsustainable in the eye of law for the reasons discussed above. Consequently, the order

of dismissal passed by the respondent No. 2 is also bad and is unsustainable in the eye of law.

9. Accordingly, the order dated 8U8.2003 (Annexure 13) passed by Deputy General Manager (DNW), Bokaro. Steel Plant, Bokaro, respondent

No. 2 whereby the petitioner was dismissed from service of the Bokaro Steel Plant, Bokaro is hereby set aside. Consequently, the concerned

respondent is directed to reinstate the petitioner in service at the earliest.

10. In the result, this application is allowed.