

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

SWP No. 1432/2007
CMP No.1210/2008

Date of Decision: 22.04.2010

CORAM:

Mr. Justice J.P.Singh, Judge.

Appearing counsel:

For the Petitioner (s) : Mr. Amur Kotwal, Advocate

For the Respondent(s) : Mrs. Neeru Goswami, Dy.A.G.

- i) Whether approved for reporting in Press/Journal/Media : Yes/No

ii) Whether to be reported in Digest/Journal : Yes/No

Petitioner's land measuring 22' x 24' comprised in Khasra No.1479 min situated at village Arnora Tehsil Doda was taken over by the Public Health Engineering Department of the State Government for construction of a reservoir.

He has neither been paid compensation nor any other relief in lieu thereof.

He has approached the Court seeking a command to the respondents to appoint him as Class-IV employee in the State Government in lieu of the acquisition of his land, taking over whereof had deprived him of the only source of

irrigation to rest of his land measuring 15 kanals which had been rendered barren in the absence of any other irrigation source therefor.

Learned counsel appearing for the petitioner relies on *Bashir Ahmed Lone vs. State of J&K and ors.* reported as 2009(1)JKJ 121 to support the petitioner's case for appointment in the Government service.

Denying the entitlement of the petitioner to Government service in lieu of State's taking his 22' x 24' land, the State Government says that it would consider his case for grant of compensation for the land over which it had constructed the reservoir. Bashir Ahmed Lone's case (*supra*), is stated to be inapplicable to the facts of the case, as SRO 181 of 1988 which had provided for employment to one member of the family which had been left with 50% or less of their Agricultural land on account of its having been acquired by the Government for public purpose, stood rescinded by SRO 214 of 1991.

I have considered the submissions of learned counsel for the parties, gone through the SROs referred to by the learned State counsel and the judgment cited at the Bar.

The petitioner's land was acquired in the year 1997 i.e. much after the coming into force of SRO 214 of 1991 in terms whereof, His Excellency, the Governor of Jammu and

Kashmir State had been pleased to rescind Notification SRO No.181 dated 03.06.1988, which had provided for employment to one member of the family left with 50% or less of their agricultural land on account of its having been acquired by the State Government for public purpose.

Petitioner's claim to appointment may not thus be sustainable, in that, when he handed over the possession of the land to the respondents for construction of the reservoir, there was no law in force in the State authorizing grant of employment to one member of the family of those whose land had been acquired. Bashir Ahmed Lone's case may not thus have any application to the facts of the present case, in that, the land in that case stood acquired when SRO 181 was still in operation and the subsequent withdrawal of the SRO was held not to affect the right of the petitioner to Government employment.

There is, thus, no merit in the petitioner's claim to employment in Government service for acquisition of his land by the State. All that the petitioner was entitled to, in the circumstances is the compensation for his land over which the State had constructed the reservoir.

The petitioner's claim to employment in Government service in lieu of the land acquired by the State for construction of reservoir is, therefore, rejected. He is,

however, held entitled to compensation for his land, in that, the State cannot deprive the petitioner of his property without paying compensation therefor.

This Petition is, accordingly, disposed of with a direction to the respondents to consider the petitioner's case for grant of such compensation to him as permissible under law for acquisition of his land by the State, within a period of four months.

(J. P. Singh)
Judge

JAMMU
22.04.2010
Vinod.

