

Damodar Valley Corporation and another

Vs

Damodar Valley Corporation Displaced Employees Union and others

Civil Appeal 1757 of 1992

(K. Jayachandra Reddy, S. Mohan, G. N. Ray JJ)

09.04.1992

JUDGMENT

1. Special leave granted.

2. We have heard learned counsel on both sides.

3. The Damodar Valley Corporation (for short 'DVC ' ) is the appellant herein. The appeal is directed against the order of the Division Bench of the Calcutta High Court affirming the order of the learned single Judge. The dispute is about the manner of absorbing the displaced persons. The details have been set out in the judgment of the Division Bench. Now 91 petitioners claiming to be displaced persons filed the writ petition through their Union in a representative capacity. The learned single Judge held that these 91 persons are entitled to be absorbed by the DVC as per law and accordingly the DVC was directed to absorb them without any delay. The learned single Judge also held that all the said 91 persons by their affidavits have been able to prove the authenticity of their respective title in respect of the respective land. Accordingly, they claimed under the category of displaced persons. Challenging the order of the learned single Judge, the DVC filed an appeal and the Division Bench dismissed the appeal. However, along with the appeal a contempt petition also was there which was filed earlier and placed before the Division Bench. While disposing of the contempt petition the Division Bench held thus :

"We make it clear that if in case all the 91 persons could not be absorbed at a time, in that case the appellant DVC would be restrained from making any appointment in future, without absorbing the 91 writ petitioners, who had been able to prove their title. Regarding the remaining 9, the appellant DVC will be at liberty to ascertain their title and subject to their medical examination of their physical fitness, the appellant DVC will issue formal appointment letter.

Further, we direct that the appellant DVC would not take any plea that the writ petitioners have crossed their age limit, because of the protracted litigation pending before this Court and issue appointment letter, forthwith, subject to medical fitness without any further plan."

Questioning the same, the DVC has filed this petition.

4. Admittedly, a panel of 701 displaced persons was prepared. The names of 91 persons, who are

respondents before us, do not find a place. Mr. Salve, learned counsel for the appellant, submits that the 91 persons have not proved their title and they are not entitled to be placed in the category of displaced persons. This question cannot be gone into in this petition. The learned single Judge as well as the Division Bench have categorically held that by the affidavits filed by the 91 persons, they have established their title and their entitlement to be placed in the category of displaced persons. The next question is whether the direction of the High Court to the effect that these 91 persons should be absorbed forthwith can be sustained. In view of the fact that there is already an existing panel, it is needless to say that these persons even in case they are entitled to be put in the category of displaced persons, cannot have any preferential rights. There should be some criteria on the basis of which the absorption should be made from among the persons empanelled. Therefore, to avoid further complications and having regard to the fact that for the last so many years nothing concrete has happened, we want to put to an end to this litigation and in that view we lay down certain guidelines and direct the DVC to implement the absorption as early as possible. Accordingly, we give the following directions:

(i) Out of these 91 persons, who are respondents before us, it is admitted that four persons are already in the panel, the remaining 87 persons should be added to the panel which is already in existence. Then the total number of persons in the panel would be 788 persons. If out of them some have already been appointed, they should not be disturbed.

(ii) As and when vacancies arise, the concerned authorities of the DVC shall make appointments from the panel of 788 of the Group 'C' posts.

(iii) To avoid any arbitrariness we want to lay down certain criteria on the basis of which seniority of the persons in the panel can be fixed. The seniority may be fixed on the basis of the qualification and the age. The qualification should be the first criteria and the next criteria would be the age in preparing the seniority list.

(iv) The other conditions as mentioned in the Circular dated 15-9-77 read with 6-4-90 shall be taken into consideration and only such candidates, who fulfil those conditions, shall be entitled for being appointed. However, as already made clear the question of title in respect of 87 persons need not be gone into.

From the record it is clear that the panel has been prepared as back as ten or fifteen years ago. We direct that the panel should be frozen and be limited to these 788 persons. We may also mention here that learned counsel for both sides have agreed for this formula. We direct the DVC to recast the panel as per the directions given above within three months from today.

5. The DVC is further directed to fill up the existing vacancies in the reserved quota of 30% within six months. In case sufficient candidates do not turn up for the appointments in the general quota, the DVC may consider selecting some of the persons from the panel according to the seniority for being absorbed in the general quota as and when vacancies arise. The order of the High Court stands modified to the extent indicated above. The appeal stands disposed of. No costs.

Order accordingly.

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