

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2784-2785 OF 2020
(@ out of SLP (CIVIL) No.15475-15476/2019)

NTPC LTD. & ANR.

Appellant(s)

VERSUS

THE STATE OF ODISHA & ORS.

Respondent(s)

O R D E R

Leave granted.

These appeals by special leave challenge the Order dated 12.07.2016 in WP(C)No.9597/2014 and Order dated 07.12.2018 in Rev. Pet No.258 of 2016 passed by the High Court of Odisha at Cuttack. The basic facts culled out from the statement of list of dates in the petition are as under:

"1995- NTPC Ltd. which is a premier Central Public Sector Undertaking involved in generation of electricity through renewable and non-renewable resources had taken up the setting up of talcher Super Thermal Power Station-3000 MW, at Deepshikha Kaniha, Odisha. For setting up of the said power plant, several acres of land were required to be acquired from the villagers by the State of Odisha, for which compensation was to be paid by NTPC Ltd. under the provisions of Land Acquisition Act. The petitioner Company for the welfare of the persons and the families who lost their land had brought a R&R plan (Rehabilitation & Resettlement plan) whereby apart from the compensation for the acquired land, person or family who had lost more than 1/3rd of their total land holding were made entitled

to certain benefits under the said R&R plan. The persons/families entitled to benefits under the said R&R plan were called as substantially affected person (SAPs).

The SAPs were provided with five options as benefits under the R&R plan and out of the said five one option to be chosen by the said SAPs. The said five options were:-

- a. Employment, or
- b. Shop, or
- c. Provision of Rs.50,000/- for self employment, or
- d. Provision of Rs.50,000/- for purchase of agriculture land, or
- e. Cash assistance of Rs.500/- per month with biennial increase for a period of 30 years.

21.07.1995 - The work of identifying the SAPs and taking option from the said SAPs under the R&R plan was given to one IMCO, a Government of Odisha Organization. The list of SAPs was prepared by IMCO and displayed/published providing for the option exercised by the said SAPs and further provided 15 days time i.e. upto 21.07.1995 for any objections i.e. recording non-inclusion of the name in the list or providing a wrong option etc."

The options were to be exercised by the SAPs on or before 21.07.1995. It is a matter of record that the Writ Petitioners in the present matter had initially recorded their option that they be provided Rs. 50,000/- for purchase of agricultural land.

Relying on the fact that, 23 SAPs were allowed to change their options after the cut-off date, similar relief was claimed by the Writ Petitioners in the instant case. The details in that behalf are appended to the reply filed by respondents 10 to 12, 14-16,20 & 22 in the present appeal. The tabular chart giving details of those 23 SAPs is:-

Sl.No.	Name of the applicant	Date of application
1.	Dukhabandhu Sahoo	06.05.1996
2.	Kulamani Naik	09.08.1996
3.	Tankadhara Pradhan	05.05.1997
4.	Krushna Ch.Sahoo	03.08.1996
5.	Sadananda Sahoo	11.03.1997
6.	Harsan Pradhan	03.08.1996
7.	Pramod Sahoo	27.12.1996
8.	Akadusia Naik	22.05.1997
9.	Akarama Sahoo	03.05.1997
10.	Tanu Naik	13.05.1997
11.	Minaketan Sahoo	03.05.1997
12.	Kalandi Dehury	18.09.1996
13.	Kuhura Sahu	05.05.1997
14.	SashiBhushan Pradhan	18.09.1996
15.	Ratindra Mohan Nath	11.04.1997
16.	Madhu Naik	24.02.1997
17.	Megha Naik	22.03.1997
18.	Nepal Sahoo	15.04.1997
19.	Arakhita Sahu	08.04.1997
20.	Kapila Pradhan	29.03.1997
21.	Bankanidhi Pradhan	04.09.1996
22.	Hrudayananda Sahoo	28.09.1996
23.	Fakir Nahak	06.01.1997

Out of 19 persons who had originally filed the Writ Petition,

the claims of six Petitioners were accepted by the department. SAP at Sl.No.19 being not interested, we are thus left with only 12 persons. The details of those 12 persons including the dates when they opted for change are as under:

Sl.No.	Name of the applicant	Date of application
1.	Mulia Senapati	15.09.1996
2.	Goura Chandra Pradhan	27.07.1995
3.	Bholeswar Sahoo	07.05.1996
4.	Chaudhary Behera	10.09.1996
5.	Kalandi Sahoo	31.05.1996
6.	Natha Sahoo	20.10.1996
7.	Pakei Sahoo	11.06.1997
8.	Gokala Pradhan	12.10.1998
9.	Kalandi Sahoo	12.08.1999
10.	Chaturbhuja Sahoo	05.03.1997
11.	Sudarsan Sahoo	16.06.1998
12.	Digamber Pradhan	14.02.1997

The matter was considered by Revenue Divisional Commissioner, North Division, Sambalpur and in his order dated 19.03.2014, he observed as under:

“In the circumstances, the material on record was examined with reference to other 23 persons who according to the petitioners, are similarly placed persons and got job under the Scheme. As per the report of Collector, Angul, out of these 19 petitioners, 6 petitioners in Sl. Nos. 2,3,9, 11,14 and 15 from the original petition were expunged by the Hon’ble High Court leaving a balance of 13 petitioners.

Out of 13 petitioners, one petitioner namely Lochan Sahu, s/o Panu Sahu SAP No.1157 was deleted from the SAP list. The rest 12 petitioners have not been extended job due to submission of application beyond the cut-off date of option change i.e. 19.12.1999. In view of this, and since, in the earlier cases opportunity was given to another 23 persons by the Collector Angul to change their option after the cut-off date, these cases of 12 petitioners are also of similar nature and need consideration on the principle followed earlier by the District Administration.

Hence, the case is disposed of with a direction to the Collector, Angul to allow the remaining 12 petitioners to change their option from land to job as has been done in the cases of 23 persons earlier. This order is to be implemented within three months from the date of its receipt."

The challenge raised by the present appellant to the aforesaid order was negated by the High court. It was found that the cases of the present 12 SAPs were identical to the cases of other 23 SAPs. Affirming the order passed by the Revenue Divisional Commissioner, Sambalpur, the High Court dismissed the writ petition and the Review petition arising therefrom.

In compliance of the order passed by the High Court, an order was thereafter passed by the Spl.L.A.O., NTPC, Angul, allowing 11 out of 12 SAPs to nominate their legal heirs. The order reads as under:-

**"OFFICE OF THE SPL. LAND ACQUISITION OFFICER, NTPC,
ANGUL**

Order No.904/(LA)/NTPC dated 31.08.2016

In obedience to the order No.22 dated 12.07.2016 of Hon'ble High Court of Orissa, Cuttack passed in WP(C)No.9597/2014 filed by NTPC Ltd., the Collector, Angul has been pleased to change the nominee of the following applicants/SAPs in favour of their respective nominated legal heirs against each coming under the family

definition.

S.No.	Name of the applicant	Name of the original SAP holder	SAP No.	Nominee to be changed in favour of	Relationship with the SAP	Educational Qualification
1	2	3	4	5	6	7
1.	Mulia Senapati, s/o late Sukru Senapati of Derang	Mulia Senapati	A-378	Madhusudan Senapati	Son	HSC ITI (Fitter)
2.	Netha Sahoo s/o late Kasinath Sahoo of Derang	Netha Sahoo s/o late Kasinath Sahoo of Derang	A-315	Kutartha Sahoo	Son	+2 Arts ITI (Fitter)
3.	Gouarva Chandra Pradhan s/o Dayanidhi of Sarathipal	Gouarva Chandra Pradhan s/o Dayanidhi of Sarathipal	B-408	Susanta Kumar Pradhan	Son	+2 Science ITI (Electrician)
4.	Chaturbhuja Rout S/o late Krushna Chandra Rout of Remuan	Chaturbhuja Rout S/o late Krushna Chandra Rout of Remuan	A-961	Manikanta Rout	Son	+3 Arts ITI (Fitter)
5.	Dalimba Pradhan w/o late Gokula Chandra Pradhan of Rangabeda	Gokula Pradhan s/o Sikadev of Rangabeda	A-846	Ugresan Pradhan	Son	HSC ITI (Electrician)
6.	Pakei Sahoo D/o late Saheb Sahoo of Tukua	Pakei Sahoo D/o Saheb Sahoo of Tukua	A-1086	Hemanta Kumar Dehury s/o Kumar Dehury	Grand son (son's son)	HSC ITI (Electrician)
7.	Bhoteswar Sahoo	Bhoteswar Sahoo	A-233	Smt. Reeta Sahoo w/o	Daughter-in-law	+3 Arts, PGDCS

	s/o late Gopinath Sahoo of Darang	late Gopinath Sahoo of Darang		Santosh Kumar Sahoo		ITI (Electrician continued)
8.	Digambar Pradhan s/o Harihar Pradhan of Rangabeda	Digambar Pradhan s/o Harihar Pradhan of Rangabeda	A-920	Nishikanta Pradhan	Son	HSC ITI (Electrician)
9.	Duti Sahoo W/o late Sudarshan Sahoo of Rangabeda	Sudarshan Sahoo s/o Pabitra Sahoo of Rangabeda	A-861	Priyadarshini Sahoo d/o Bibhutibhusan Sahoo	Grand daughter	HSL Diploma in Elec. Engg. Continued.
10.	Prafulla Kumar Pradhan s/o Dibakar Pradhan of rangabeda	Prafulla Kumar Pradhan s/o Dibakar Pradhan of rangabeda	B-398	Pranati Behra w/o Manoj Kumar Pradhan	Daughter-in-law	+2 Science Diploma in Elect. & Telecom Engg.
11.	Kali Charan Sahoo s/o Mangulu Sahoo of Rangabeda	Kalandi Sahoo, S/o Mangulu of Rangabeda	A-878	Aruna Kumar Sahoo	Son	+2 Science ITI (Electrician)

By order of Collector, Angul
Spl. Land Acquisition Officer,
NTPC, Angul."

We may also record the stand taken by the Government of Odisha in its affidavit filed in this Court.

"5F. That in reply to para under reference, it is submitted that the point raised in this para is that Spl. L.A.O., NTPC, Angul has submitted report to the Deputy Manager (HR-LA), NTPC/TSTPS, Kaniha, Angul vide letter No.184 dated 10.03.2014 that the case of 12 SAPs/Respondents No. 10 to 22 herein is not similar to the cases of 23 Nos. of SAPs. But, as per the Counter Affidavit filed by the Spl. L.A.O., NTPC, Angul on 30.07.2015 in WP (C)No.9597 of 2014 that the cases of

Mulia Senapati and others are similar and identical with that of 23 persons. Though it has been mentioned several times about the letter No.184 dated 10.03.2014 in the aforementioned Counter Affidavit but nowhere it is mentioned that they are not similar to the 23 Nos. of case. Both the earlier 23 persons and the present Respondent Nos. 10 to 22 have filed their objections after the cut-off date i.e. after 21.07.1995. as such, it is submitted that they are similar to the 23 nos. of cases as the Respondent No. 10 to 22 has applied much after lapse of time i.e. after cut-off date."

Heard Ms. Pinky Anand, learned Senior Advocate in support of the appellants and Mr. G.Sankaranarayanan, learned Senior Advocate for the respondents (original writ petitioners).

It was contended by the appellants that the cases of the writ petitioners did not stand on similar footing and they having exercised the option well after the cut-off date, the conclusions arrived at by the High Court were completely wrong. The submissions were countered by the respondents.

Having considered the circumstances on record and specially the order passed by the Revenue Divisional Commissioner as well as the stand taken by the State Government, we see no reason to interfere in the matter. The cases of the original writ petitioners were found to be similar to those 23 SAPs and as such the benefit was rightly extended to them. We hasten to add that such change of option ought not normally be permitted and the cases of those 23 and present 12 SAPs must be taken as exceptions to the normal rule.

We, therefore, direct:

- (a) All 12 SAPs shall be afforded employment in terms of the Policy.
- (b) The options exercised by 11 out of said 12 SAPs as noted in the order dated 31.08.2016 by Spl. Land Acquisition Officer, NTPC, Angul must also be accepted.
- (c) The employment as directed in (a) and (b) shall be effective from 01.09.2020 and the employees shall not be entitled to raise any claim for seniority on par with other employees from a back date nor shall the employees be entitled to any weightage or emoluments from a back date.

With the aforesaid directions, the appeals are disposed of.
No costs.

.....J.
(UDAY UMESH LALIT)

.....J.
(VINEET SARAN)

New Delhi;
July 20, 2020.

