SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Suresh vs.delhi State Industrial & Infrastructure Development Corporation Ltd.

Suresh vs.delhi State Industrial & Infrastructure Development Corporation Ltd.

SooperKanoon Citation : sooperkanoon.com/1220145

Court : Delhi

Decided On : Dec-19-2018

Appellant : Suresh

Respondent : Delhi State Industrial & Infrastructure Development Corporation Ltd.

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI % Judgment delivered on:

19. 12.2018 + W.P.(C) 8479/2016 and CM APPL. 34948/2016 SURESH versus .....

... Petitioner
DELHI STATE INDUSTRIAL & INFRASTRUCTURE DEVELOPMENT CORPORATION LTD. Advocates who appeared in this case: ..... Respondent For the

... Petitioner
For the Respondent : Kumar Dushyant Singh, : Mr Satvik Varma and Mr Tanveer : Oberoi, CORAM HONBLE MR JUSTICE VIBHU BAKHRU VIBHU BAKHRU, J JUDGMENT1 The petitioner has filed the present petition, inter alia, impugning a communication dated 04.01.2016 whereby the petitioner was informed that he is not eligible for allotment of a dwelling unit under the Second Rajiv Gandhi Housing

Scheme (hereafter the Scheme). The earnest money of a sum of 32,000/- deposited by the petitioner was also returned under the cover of the said letter.

2. The principal controversy to be addressed in the present petition is whether the petitioner is entitled for allotment of a flat under the Scheme. W.P.(C) 8479/2016 Page 1 of 7 3. Briefly stated, the relevant facts necessary to address the aforesaid controversy are as under:-

"3.1 The respondent (hereafter DSIIDC) had floated the Scheme with a view to provide residential accommodation at affordable prices, at the three industrial complexes, namely, Bawana Industrial Complex, Narela Industrial Complex and Bhorgarh Industrial Complex. Under the Scheme, DSIIDC was to construct about 4348 residential units of different sizes. 3.2 On 28.03.2007, the petitioner filed an application for allotment of a Type-III flat along with a Managers cheque of 32,000/- as earnest money (EMD). At the material time, the petitioner was employed with a company named Team Lease Services Pvt. Limited. 3.3 The allotment of flats under the Scheme was to be made on the basis of a draw of lots, which was conducted on 24.01.2012. The petitioner was successful in the said draw of lots and his name was included in the list of eligible applicants. 3.4 In the meanwhile, on 25.11.2013, Team Lease Services Private Limited (the petitioners employer) terminated the petitioners services with effect from 06.11.2013. Since, the petitioner did not receive any communication from DSIIDC, he wrote a letter dated 18.12.2013 requesting DSIIDC to inform him regarding the status of the allotment of the flat pursuant to his application. DSIIDC sent a letter dated 15.01.2014 in response to the aforesaid letter informing the petitioner that he was successful in the draw of lots on 24.01.2012. The field verification of the prospective allottees was under process and the final W.P.(C) 8479/2016 Page 2 of 7 allotment would be made to the prospective allottees subject to the outcome of the field verification. 3.5 Field verification was carried out and it was recommended that the petitioner was not eligible for allotment of the flat. The reason for such recommendation as indicated in the field verification report reads as: Applicant left the job. On 08.08.2014, DSIIDC informed the petitioner that as per the field verification report, he had been found to be ineligible for allotment of flat under the Scheme and the petitioner was permitted to make a representation

against the said report, if he so desired. 3.6 On 22.08.2014, the petitioner made a representation against the Field Verification Report and submitted various documents including the experience certificate from his previous employer. The petitioners representation was rejected by the Appellate Committee on 25.08.2015 with the following remark: The applicant is not working in an industrial area (DDA Raja Ram Market, Dr. Ambedkar Nagar). Therefore, may be treated as Not Eligible. 3.7 Thereafter, on 19.10.2015, the petitioner filed an application under the Right to Information Act, 2005, seeking certain information. According to the DSIIDC, the same was duly responded to. The petitioner, on the other hand, disputes that he had received any reply to the said application. Be that as it may, it is not necessary to examine this dispute as it is not material to the controversy in this petition. 3.8 On 04.01.2016, DSIIDC sent a letter enclosing therewith a cheque of 32,000/- as refund of EMD. W.P.(C) 8479/2016 Page 3 of 7 3.9 In the month of March, 2016, the petitioner sent a legal notice to DSIIDC calling upon the respondent to allot a flat under the Scheme and hand over the possession of the same to the petitioner. 3.10 DSIIDC responded to the said legal notice by a letter dated 29.03.2016. According to DSIIDC, the petitioner was ineligible for allotment of a flat as he was working in a private company, which was not located in an industrial area. In view of the aforesaid dispute, the petitioner has filed the present petition.

4. Before proceeding further to address the controversy, it would be relevant to refer to the eligibility criteria as set out in the brochure of the Scheme. Paragraph 4 of the said brochure is relevant and is set out below:-

"4. Eligibility a) Applicant must be a citizen of India. b) Resident of NCT of Delhi and should have attained the age of 18 years on 1.1.2007. c) Applicant should be an Industrial Worker in any Industrial Complex of Delhi. d) Applicant should be a Group C & D employee including temporary/on daily wages/work charge in any of the PSUs under GNCTD. e) Widows of bonafide Industrial workers in relocation Industrial Complexes. f) Persons who have availed benefit of any subsidized housing under any Government Scheme (including slum relocation) shall not be eligible for allotment of flat under this scheme. W.P.(C) 8479/2016 Page 4 of 7 5. It is apparent from the above that in order to be eligible for allotment of a flat, the

applicant should be either an industrial worker in an industrial complex of Delhi or a Group C & D employee in any of the PSUs under Govt. of NCT of Delhi.

6. The learned counsel appearing for DSIIDC contended that since the petitioner was not found to be an industrial worker at the time of the field verification report, he was ineligible for allotment of a flat. He contended that allotment of the flat could only be made to a person who was eligible on the date of the field verification, and since the petitioner had left his job, he was not eligible for allotment of a flat.

7. The above contention is unmerited. The question of eligibility of an applicant has to be considered with reference to when the time at which the application was made and not at the time of the field verification. Field verification is conducted only to verify whether the details provided by the applicant in his application are correct. A plain reading of paragraph 4 of the brochure also indicates that the criteria set out is for determining the eligibility of an applicant. Thus, it is necessary to determine whether the petitioner met the eligibility criteria at the time of making the application.

8. The petitioner claims that at the time of submission of the application, he was working as an industrial employee on a temporary basis in a PSU. However, there is no material placed on record which would establish the same. A perusal of the application submitted by the petitioner indicates that against the entry - Name of Industrial Unit where applicant is worker/Name of PSU where employee is W.P.(C) 8479/2016 Page 5 of 7 working - the petitioner had filled in the following details: Team Lease House Services Pvt. Ltd..

9. Indisputably, Team Lease House Services Private Limited is not a PSU under the Government of NCT of Delhi and, therefore, clearly the petitioners contention that he was working with a PSU at the material time cannot be accepted.

10. Although, the petitioner states that he was an industrial worker at the relevant time, there is no material to establish the same either. Further, in order to comply with the criteria, the petitioner has to not only establish that he was an industrial worker at the material time but also that he was working in an Industrial Complex

of Delhi. The petitioner had submitted an ESIC Card issued to him. However, that does not establish that he was an industrial worker working in an Industrial Complex of Delhi. In order to satisfy the eligibility criteria, the petitioner would have to establish that he was, at the material time, (a) an Industrial Worker working in an industrial complex of Delhi or (b) he was Group - C & D employee in any of the PSUs under Govt. of NCT of Delhi. In the present case, the petitioner has been unable to establish that he satisfied any of the aforesaid criteria at the material time, that is on 28.03.2007, when he made an application for allotment of a flat.

11. In view of the above, this Court finds no infirmity with the decision of DSIIDC to reject the petitioners application for allotment of a flat under the Scheme. W.P.(C) 8479/2016 Page 6 of 7 12. It is seen that the petitioner had given the correct address of his employer and it would be clear to DSIIDC whether the said unit/office fell within an Industrial complex. It was incumbent upon DSIIDC to examine the applications at a threshold and refund the EMD of applicants that were found to be ineligible. However, the petitioners name was included in the list of applicants and draw of lots. This draw was held almost five years after the petitioner had paid the EMD. The field verification was carried out more than two and a half years, thereafter. DSIIDC took more than one year to dispose of the petitioners representation and the EMD was refunded in the year 2016. All this while, DSIIDC has enjoyed the benefit of the retaining the funds of the petitioner. This Court is of the view that DSIIDC cannot profit from the delay and must compensate the petitioner by paying interest at the rate of 5% per annum. DSIIDC is, accordingly, directed to pay simple interest on the EMD of 32,000/- at the rate of 5% per annum from 28.03.2007 till 04.01.2016. The EMD along with the aforesaid interest will be paid to the petitioner within a period of two weeks from date.

13. The petition is dismissed, albeit with the aforesaid directions. The pending application is also disposed of. DECEMBER19 2018 pkv VIBHU BAKHRU, J W.P.(C) 8479/2016 Page 7 of 7

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com