

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.6505 of 2013

Dharmender Singh

...Petitioner

versus

State of Haryana and others

...Respondents

AND

CWP No.13142 of 2014

Hoshiar Singh and another

...Petitioners

versus

State of Haryana and others

...Respondents

Date of Decision: **November 26, 2015**

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr. N.S. Shekhawat, Advocate
for the petitioner (in CWP-6505-2013).

Mr. Mohit Garg, Advocate
for the petitioners (in CWP-13142-2014).

Mr. R.K.S.Brar, Addl. AG, Haryana.

Mr. P.S. Poonia, Advocate for
respondents – Haryana Power Generation Corp. Ltd.

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HARINDER SINGH SIDHU, J.

This judgment shall dispose of two writ petitions,
namely CWP No.6505 of 2013 and CWP No.13142 of 2014, as
the issues involved in both the cases are identical in nature.

For decision, the facts are being taken from CWP
No.6505 of 2013.

Prayer is for directing the respondents for considering the case of the petitioner for appointment in Rajiv Gandhi Thermal Power Plant as per the policy dated 5.7.2007 (Annexure P-6) of the Government of Haryana.

The petitioner is a resident of village Khedar, District Hisar. Land in this village was acquired in the year 1998, for setting up of Rajiv Gandhi Thermal Power Plant. Initially, there was some dispute relating to the acquisition of the land between the State Government and the Villagers as they were resisting parting with their land. With a view to resolve the same, an announcement was made by the then Chief Minister, Haryana at Hisar on 19.5.2007 that one member from each of the families of village Khedar, whose land has been acquired would be provided employment in the Thermal Plant. With a view to implement this Government decision, a Scheme was formulated as per which families whose more than 2 acres of land was acquired would be the beneficiaries. Consequently a communication dated 5.7.2007 (Annexure P-6) was sent by respondent No.1 to the respondent Corporation directing them to take the following steps:-

“(i) The first stage will be to make a list of families whose land had been acquired. Family would mean as it stood on the date the land was acquired and not further subdivisions and subsequent families created on the basis of partition. This will mean that a member of family as existing on the date of

acquisition will be given a job on the basis of qualification and eligibility.

(ii) The second step towards making this possible would be to notify these families about the jobs available in class III & IV categories in the power plant and the qualification required for recruitment in these posts in about 1 -2 years from now so that interest families may put their children for such technical/desired training or educational streams to make them eligible.

(iii) The next step would be to take out such number of posts from the purview of the general selection by getting a special dispensation of the Government and to select candidates from this village through a separate merit list or selection process.

(iv) The Nigam will also make effort for employing eligible persons from the affected families during construction through the EPC Contractor.”

The petitioner who is a permanent resident of village Khedar, graduated in Arts from Kurukshetra University in June, 1999. Thereafter, he did Post Graduate Diploma in Computer Science from Kurukshetra University and also passed M.Sc.(Computer Science) from Maharishi Dayanand University in May, 2004. The petitioner being eligible, applied for employment in thermal plant on 7.8.2011 (Annexure P-8). This application was endorsed by the Naib Tehsildar, Barwala who certified that total 26 Kanals 8 Marlas land of the joint family of the petitioner had been acquired for the Thermal Plant. A joint

affidavit dated 8.8.2011 (Annexure P-9) of the family members of the petitioner namely his father, mother and brother was also submitted that only the petitioner had applied for job and they had no objection to the same and that no other family member will claim a job under this scheme. Thereafter, the petitioner made repeated representations to the respondents, but of no avail.

Aggrieved, the petitioner has filed this petition.

In the written statement filed on behalf of the respondents, it is stated that after the initial announcement by the Chief Minister for providing jobs to a member of the family whose land had been acquired, 527 applications were received from the land oustees. Since, the number of applications was large, it was decided to restrict the offer of employment to such oustees, who had contributed 2 acres of land or more. It is further stated that verification of the names of persons, in respect of whom more than 2 acres of land was acquired was done by the then Deputy Commissioner, Hisar and after the verification, names of 133 persons, whose land was acquired for RGTPP, Khedar, Hisar was recommended by the office of Deputy Commissioner, Hisar vide letter dated 24.5.2011 (Annexure R-3/2). Thereafter, offers of appointment to 119 land oustees were issued and letters of assurance to 10 applicants, who were under age at that time, were also given and the names

of four applicants, who were *Dohta/Dohti* (maternal grandchildren) were not considered for appointment at that point of time.

Regarding the claim of the petitioner, though the report of the revenue officials that 26 Kanals 8 Marlas of land of the family of the petitioner was acquired has not been disputed, it is stated that the petitioner is not eligible for the employment under the Scheme, because the individual share of the petitioner in the land acquired is less than 2 acres as he owns only 6 Kanals 11 Marlas of this land.

I have heard learned counsel for the parties.

It is not disputed that land measuring 26 Kanals 8 Marlas of the family of the petitioner was acquired. The only ground for rejecting his claim for employment under the scheme is that in this land, the land in his name was only 6 Kanals 11 Marla, which is less than the 2 acres required as per the scheme.

The question which arises for consideration is as to whether this can be a valid ground to reject his claim?

In the written statement the contents of the Special Scheme have been reproduced as under:

“Hon'ble Chief Minister has approved the special scheme of employment to one eligible member of each of the families of oustees of Thermal Power Plant, Khedar (Hisar). Based

on the proposal, the scheme be formulated and submitted for ex-post facto approval of the Cabinet. This scheme emanates out of CM announcement dated 19.05.2007 as a special dispensation for the families whose more than 2 acres of land has been acquired for Rajiv Gandhi Thermal Power Plant, Khedar (Hisar). He has also approved the proposal except that no relaxation in the educational qualification is to be given who are under middle or illiterate for the post of Peon. These people be employed as Beldar or unskilled workers for which no educational qualification is required.

He has also ordered that necessary relaxation from CS and FD be obtained in due course. Meanwhile the appointment letters be given as has been proposed in the note of FC, Power on pre-page 35/N.”

The aforesaid indicates that this is a special Scheme for providing employment to `one eligible member' of `each of the families' where more than 2 acres of land of the family has been acquired for the Rajiv Gandhi Thermal Power Plant.

As per the communication Annexure P-6 sent to the respondent-Corporation detailing the steps required to be taken, the first step to be taken was to make a list of the families whose land had been acquired. It is specified therein that family would mean as it stood on the date the land was acquired and not the further sub-divisions and the separate family units created on the basis of partition.

It indicates that the focus of the Scheme is 'family' and not the individual members thereof. Accordingly, the total land of the family that has been acquired is to form the basis of the eligibility for employment and not the land acquired of each individual member thereof. It has been provided that only one member of the family will be provided employment even if the land belonging to the family that has been acquired is in excess of 2 Acres. The Scheme does not contemplate that if more than two acres of land of more than one member of a family is acquired, each one of them will be given employment. This is because the Scheme envisages employment for only one member in the family. Conversely, the Scheme cannot be interpreted in a manner that for availing the benefit of the Scheme, more than two acres of land of each individual member thereof should have been acquired. Such an interpretation is contrary to the plain terms of the Scheme. Besides, it would render the Scheme totally illusory, as it would deny the benefit of the Scheme to the small and marginal farmers who are most in need of such a beneficial Scheme.

Thus, the ground for denying the benefit of the Scheme to the petitioner on the ground that only 6 kanal 11 marla of his land has been acquired, which is less than 2 acres cannot be sustained. As 26 kanals 8 marlas land of the family of the petitioner has been acquired, it is held that one member of

the the family of the petitioner is entitled to claim employment under the Scheme.

Accordingly, both the petitions are allowed.

It is directed that the petitioners be considered for employment under the Scheme. The needful be done expeditiously and subject to fulfilling the other necessary conditions, the petitioners be offered employment within a period of two months from the date of receipt of certified copy of this order.

As there is no averment in CWP No.13142 of 2014 that any affidavit has been furnished by other members of the family of the petitioner that they have no objection to the employment under the Scheme being given to the petitioner and that they would not raise any separate claim for employment under the Scheme, his case would be considered subject to his furnishing such an affidavit.

November 26, 2015

**(HARINDER SINGH SIDHU)
JUDGE**

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