

RSA NO. 379 OF 1995

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

RSA NO. 379 OF 1995

Date of Decision: March 03, 2016

Haryana State Electricity Board and another

-Appellants

Versus

Karam Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arvind Seth, Advocate
for the appellants.

Mr. Rajesh Goyal, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Suit of the plaintiff was decreed vide judgment and decree dated 08.12.1992 whereby he was held entitled to the employment in Panipat Thermal Power Project Assan, Panipat. Mandatory injunction was granted against the defendants to

provide employment to the plaintiff commensurate to his qualification within specified time.

{2}. The judgment of the trial Court was upheld by the lower Appellate Court vide judgment and decree dated 01.10.1994. The policy of the State was reiterated and it was held that the defendants were bound to provide employment to the plaintiff according to his qualifications.

{3}. In the plaint, the plaintiff-respondent specifically pleaded that when the land was to be acquired with the Panipat Thermal Power Project, it was professed, committed and published policy of defendant No.1 that whosoever's land was to be acquired, one member of that family would get a job in the Panipat Thermal Power Project, commensurate with his qualification.

{4}. After the acquisition of land of the plaintiff, he applied for the employment in accordance with the policy published by defendant No.1. The claim of the plaintiff was declined whereas claims of similarly situated landowners were considered and one

of the family members of those landowners were provided with the job.

{5}. In reply to para no.3 of the plaint, defendant Board denied the contents evasively. The publication of scheme was not denied in the pleadings but in the evidence, a notification dated 11.01.1988 was relied to the effect that the instructions notified vide notification dated 06.05.1985 were withdrawn with immediate effect.

{6}. Trial Court while discussing issue No.1 took notice of the fact that fifteen persons from the village of the plaintiff were given employment after acquisition of their land in terms of the policy of the State. Even the person who was given employment was examined as PW2 i.e. Hawa Singh who had endorsed the factum of getting employment on account of acquisition of his land. Defendant i.e. V.P. Arora, DHD Xen CCDI, Panipat Thermal Power Project (DW1) had admitted that the plaintiff was the candidate for employment and his case was processed and considered and was sent to the competent authority for final

approval.

{7}. On account of withdrawal of the instructions, the case of the plaintiff was dropped. The witness had admitted that there were instructions to give employment to the persons whose land were acquired. The plaintiff was also found suitable for giving employment, but due to withdrawal of the instructions, his candidature could not be considered. The action of the defendants was held to be discriminatory vis-a-vis the other persons who were granted benefit of employment under the scheme which was prevalent at the time of acquisition of the land and at the time of filing application by the plaintiff. Trial Court as well as the Appellate Court granted the relief thereby directing the defendants to provide employment to the plaintiff commensurate to the qualification possessed by him.

{8}. During the course of arguments, it has been pointed out by learned counsel for the respondent that the plaintiff-respondent Karam Singh has expired and his legal representative namely Ajay Singh (nephew) has been brought on record. Since

the policy dated 06.05.1985 was duly acknowledged by the Courts below, the provision was made to give employment to one of the family member of the landowners whose land was acquired, therefore after the death of the plaintiff-respondent, the case of the legal representative who happens to be family member of the deceased can be considered for giving appointment, commensurate to the educational qualification possessed by him.

{9}. No substantial questions of law has been formulated.

The rights of the plaintiff and his family member were crystalized on the date of publication of the policy under which benefit was given to number of similarly situated persons. The application filed by the plaintiff was well within limitation and subsequent withdrawal of instructions cannot have retrospective effect. The benefit of employment on account of acquisition of land was available to the plaintiff at the time of filing the application. The subsequent withdrawal of the instructions cannot take away the right of the plaintiff by any stretch of imagination.

{10}. In view of the aforesaid, this appeal is found to be totally devoid of merits and the same is accordingly dismissed.

March 03, 2016

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**(RAJ MOHAN SINGH)
JUDGE**