

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

CWP-7580-2014 (O&M)
Date of decision : 05.12.2018

Mandeep Kaur

...Petitioner(s)

Versus

The State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Girish Agnihotri, Sr. Advocate,
with Mr. Gurbachan Singh and Mr. Ishan Bhardwaj, Advocates
for the petitioner.

Ms. Bhavna Gupta, DAG Punjab.

Mr. Sunil Kumar Sharma, Senior Panel Counsel,
for UoI-respondent Nos.4 to 6.

JITENDRA CHAUHAN, J.

CM-1464-CWP-2017

Prayer in the present application under Order 6 Rule 17 CPC is
to amend the prayer clause of writ petition by adding one new prayer.

Heard.

For the reasons recorded in the CM application, the same is
allowed and the amended petition is taken on record.

Learned counsel for the respondents states that no fresh reply to
the amended petition is required to be filed.

Main case

The petitioner seeks appointment as Homeopathic Doctor
pursuant to Punjab Government Instructions dated 10.11.1988 (Annexure P-

1), issued on behalf of the Border Security Force (BSF) in view of the land acquired by the respondents. In the alternative, the petitioner prays that the land acquired by the respondents be restored back to her and in lieu thereof, the petitioner would repay the amount of compensation received by her.

It is contended that the Department of Revenue, Government of Punjab (Land Revenue Branch) issued letter dated 10.11.1988 (Annexure P-1) to the Deputy Secretary, Department of Home Affair and Justice, requesting to ensure that the area under acquisition be demarcated strictly on the basis of khasra numbers and area thereunder. It was also mentioned in the letter that one eligible adult member from the family of each land owner, whose land was being acquired, would be provided employment by the BSF. It is submitted that the land of the petitioner's father situated in Village Mehmoodpura was acquired, therefore, she is entitled to get appointment in terms of letter Annexure P-1. It is further averred that the petitioner is a qualified Homeopath.

It is further contended that the claims of the petitioner and some other similarly situated persons were rejected by the respondents vide order dated 06.01.2010 (Annexure P-5). Thereafter, the petitioner along with others approached this Court by way of filing CWP No.10299 of 2013 titled as ***Gurlal Singh and others Vs. Union of India and others***, which was dismissed vide judgment dated 14.05.2013 (Annexure P-6). Ultimately, the petitioner served legal notice dated 31.12.2013 (Annexure P-10), which was also rejected vide impugned order dated 02.04.2014 (Annexure P-11).

Cites ***Southern Petrochemical Industries Co. Ltd. Vs. Electricity Inspector & ETIO and others, (2007) 5 Supreme Court Cases 447.***

On the other hand, learned State counsel submits that the claim of the petitioner is barred by delay and laches. The acquisition in question was done in the year 1988-89, whereas, the instant writ petition came to be filed in the year 2014. It is further submitted that even as per the letter (Annexure P-1), the appointment, if any, was to be given by the BSF.

On behalf of respondent No.4 to 6, it has been contended that the BSF has not signed any agreement with the land owners to the effect that the BSF will provide job to one member of the family of each land owner.

Heard.

It is to be noticed that the acquisition proceedings in question were carried out in the year 1988-89. The petitioner obtained degree of Bachelor of Homeopathic Medicine and Surgery in the year 2009. Only thereafter, the petitioner has laid claim for appointment in pursuance of letter dated 10.11.1988 (Annexure P-1). No explanation has come forth on behalf of the petitioner to explain this huge and inordinate delay. Even otherwise, there is nothing on record to show that any other person has been given job in lieu of the acquisition proceedings in question.

The case law cited by learned Senior counsel for the petitioner is distinguishable on facts. In the cited case, there was an express agreement between the parties with regard to given a job in lieu of the land acquired. There is no such agreement on record between the parties to the case in hand. The petitioner is not entitled to the alternative relief as well since there is no privity of contract between the parties. No case for returning the land acquired by the respondents to the petitioner is made out

at this belated stage.

In view of the above discussion, this Court is of the considered opinion that the instant petition is devoid of any merit and the same is, hereby, dismissed.

05.12.2018
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No