

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.2421 of 2017 (O&M)

Date of decision : 09.04.2019

Sunil

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vijay Pal, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Hitesh Pandit, Advocate,
for respondent Nos. 2 to 4.

Ritu Bahri, J. (oral)

CM No.16472-CWP of 2018

Affidavit of Chief Engineer, Admins. HPGCL, Urja Bhawan,
Panchkula along with Annexures R-A & R-B is taken on record.

Misc. application stands allowed accordingly.

CWP No.2421 of 2017

Petitioner is seeking a writ of mandamus directing the respondents to consider him for appointment on mechanical/technical post as per policy dated 05.07.2007 (Annexure P-2) in terms of the judgment dated 26.11.2015 passed by this Court in **Dharmender Singh vs. State of Haryana and others**, CWP No.6505 of 2013 (Annexure P-6).

Petitioner is resident of village Khedar, District Hisar. Date of birth of the petitioner is 14.08.1996. He passed his middle standard examination in the year 2010 and matric in the year 2012. He completed his

fitter course from February, 2013 to January, 2015. Documents showing his qualification are attached as Annexure P-1 (Colly.). Land of village Khedar was acquired by the Land Acquisition Collector for setting up of Rajiv Gandhi Thermal Power Plant and in this process, land owned by petitioner and his family, measuring 16 Kanals 10 Marlas, was acquired. The State Government has taken a policy decision dated 05.07.2007 (Annexure P-2) to provide job (in Class III & IV categories) to one member of the families, whose more than 02 acres of land was acquired. Further, as per said policy, the families were to put their children for such technical/desired training or educational streams to make them eligible. The petitioner has placed on record copy of application form along with verification report dated 17.06.2012 (Annexure P-3), where the Tehsildar, Barwala has verified that the land in the name of Indro widow of Shubhram son of (adopted) Madu vide mutation No.5139, comprised of Khewat No.137/170, Khasra No.239/3-4-7/3-8-13-14/1, 40K-0M, share of which 1769/4285 Bakadar 16K-10M, is situated at Rajiv Gandhi Thermal Power Plant. Affidavit of grandmother of petitioner Indro to the same effect is attached as Annexure P-4, wherein it has been stated that his grandson namely Sunil (petitioner) son of Shri Satnarayan should be granted service in the Thermal Plant. Thereafter, petitioner made representations dated 15.09.2013 & 02.01.2017 (Annexures P-5 & P-7) to the respondents seeking appointment in the Thermal Plant.

Learned counsel for the petitioner has argued that after making representation dated 15.09.2013 (Annexure P-5), petitioner came to know that this Court vide judgment dated 26.11.2015 in **Dharmender Singh vs. State of Haryana and others**, CWP No.6505 of 2013 (Annexure P-6)

allowed a writ petition, whereby petitioner was seeking job to one member of the family after acquisition of land for setting up of Rajiv Gandhi Thermal Power Plant in village Khedar, District Hisar. For getting job, the land sought to be acquired should be more than 02 acres or more. Hence, claim of the petitioner cannot be denied on the ground that he was owner of only 6 Kanals 11 Marlas of land and it was less than 02 acres. If the land of the entire family is more than 02 acres, then one member of the family was entitled to get job under the aforesaid scheme. Against the said judgment, LPA No.1297 of 2016 was filed, which was dismissed on 18.10.2016 and the said judgment has attained finality. After the aforesaid petition was allowed, petitioner again made a representation dated 02.01.2017 (Annexure P-7).

Learned counsel for respondent Nos. 2 to 4 has argued that as per notification dated 26.05.2008 (Annexure R-A), last date for submission of applications by the eligible land owners/legal heirs was 10.06.2008. As per information dated 30.04.2018 (Annexure R-B) received from the office of Haryana Power Generation Corporation Limited, letter dated 02.01.2017 relating to Sh. Sunil Kumar (petitioner) was not received in the office of Managing Director, HPGCL, Panchkula. Once, the representation dated 02.01.2017 (Annexure P-7) has not been received and the last date for submitting the applications had expired on 10.06.2008, petitioner, who has been sitting quiet for about 10 years, cannot be offered appointment. Moreover, after acquisition of land measuring 16 Kanals 10.27 Marlas, compensation of Rs.1,86,369.20 has been given to his grandmother.

After hearing learned counsel for the parties, this petition deserves to be allowed. The identical matter has already been decided by

this Court vide judgment dated 26.11.2015 passed in **Dharmender Singh's** case (supra) (Annexure P-6), which has attained finality. In that judgment, respondent No.3 was resisting the claim of petitioner (therein) for appointment on the ground that he (petitioner) was owner of only 06 Kanals 11 Marlas of land and he did not fulfil the conditions of the scheme for appointment. However, this Court held that focus of the scheme was that one member of the family, whose more than 02 acres of land had been acquired, should be given a job. Family of the petitioner, in that case, was owning 26 Kanals 08 Marlas of land and hence, the petitioner was held entitled for appointment under the said scheme. Ultimately, the petition was allowed. Against the said judgment, LPA No.1297 of 2016 was filed, which was dismissed on 18.10.2016. The said judgment has now been complied with by the respondents.

In the present case, respondents are not disputing the date of birth of the petitioner i.e. 14.08.1996. Petitioner was minor when notification dated 26.05.2008 (Annexure R-A) was issued inviting applications from the eligible land owners/legal heirs. He was only 12 years old when this notification was issued. Petitioner attained majority in the year 2016 and the present petition has been filed on 06.02.2017. Hence, the petition cannot be dismissed on the ground of delay.

Policy dated 05.07.2007 (Annexure P-2) was a beneficial scheme for all the land owners, whose land had been acquired for setting up of Rajiv Gandhi Thermal Power Plant at village Khedar, District Hisar. It was a concession extended by the Government to the land owners. Reference, at this stage, can be made to a judgment passed by Division Bench of this Court in **Jitesh Kumar Dembla vs. State of Haryana and**

others, 2007 (3) SCT 553. This was a case, where at the time of the death of parents, petitioner was 06 years old. Even, on attaining the age of majority and acquiring the qualification of 10+2, no steps were taken by respondent/Govt. to give him appointment. While referring Rules 3 (K) and 18 of the Haryana Assistance to Dependents of the Deceased Government Employees Rules, 2003, it was held that the petitioner, who was minor at the time of death of his parents, had a right to seek appointment after attaining the age of majority. Reference can also be made to another judgment passed by this Court in **Daya Kaur (widow) vs. Haryana State Electricity Board**, 1996 (2) SCT 446. It was a case, where father of the claimant had died while working in H.S.E.B. At that time, petitioner-claimant was 6/7 years of age. He was held entitled to make application within time prescribed from the date when he attained majority. Claim of the minor could not be rejected on the ground of limitation.

In the facts of the present case, petitioner was a minor when his land was acquired for setting up of Rajiv Gandhi Thermal Power Plant. He attained the majority in the year 2016. After acquiring necessary qualification, he filed representations dated 15.09.2013 & 02.01.2017 (Annexures P-5 & P-7) to the respondents seeking appointment. Hence, on attaining the age of majority, petitioner had a right to get appointment keeping in view the fact that land owned by the petitioner and his grandmother (i.e. by his family), which has been acquired for setting up of the aforesaid thermal plant, was more than 02 acres. Moreover, ratio of the judgment passed by this Court in **Dharmender Singh's** case (supra), is fully applicable to the facts of the present case.

Resultantly, the present petition is allowed and the respondents

are directed to consider the claim of the petitioner for appointment keeping in view the application dated 17.06.2012 (Annexure P-3) and affidavit dated 18.06.2012 (Annexure P-4) given by Smt. Indro (grandmother of petitioner) as also the judgment passed in **Dharmender Singh's** case (supra), within a period of one month from the date of receipt of certified copy of this order.

09.04.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No