

CWP-12690-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12690-2016

Date of Decision: 09th January, 2020

Jagdev Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. J.P.S. Sidhu, Advocate,
for the petitioner.

Ms. Anu Pal, DAG, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 17.02.2016 (Annexure P-3) passed by the Deputy Commissioner, Mansa, District Mansa – respondent No.2, whereby application submitted by him for providing job as per the Government of Punjab policy decision dated 08.11.2011 (Annexure P-1), wherein, it was decided that Government job is to be given to one family member of the land owners, whose land has been acquired for construction of Peona Power Plant at village Gobindpura, District Mansa, which was further clarified as per the guidelines dated 03.03.2014 (Annexure P-2), which fixed the criteria for consideration of the claim of the land owners.

The claim of the petitioner has been rejected on the ground that the original land owner i.e. Charanjeet Singh, father of the petitioner, had submitted an application for giving Government job to the grand-son

against his land, which has been acquired, which application was rejected by the Competent Authority vide letter dated 25.07.2014 (Annexure P-4) on the ground that grand-son would not fall within the definition of the family.

The Government having realized that not many claimants were getting jobs as per the policy because of the mandated minimum qualification of 10+2 and therefore, a decision was taken to relax the said qualification on 03.03.2014 (Annexure P-2). After the said relaxation having come into force and on rejection the claim of his brother's son, petitioner submitted an application for granting him the benefit of the said policy but the said application has been rejected vide impugned order dated 17.02.2016 (Annexure P-3) on the ground that the application which has been submitted by the petitioner was subsequent to the cut off date i.e. 31.03.2013 fixed by the Competent Authority.

Counsel for the petitioner contends that the claim of the petitioner or on the acquisition of the land of his father on merits has never been considered by the respondents and the same has been rejected only on the ground that the application has been submitted by the petitioner on 23.12.2015 i.e. after the cut off date. The petitioner could not have applied earlier for the benefit of the policy in the light of the fact that the claim had been submitted with regard to the grand-son by his father Charanjeet Singh. It is only on rejection of the said claim on 25.07.2014 (Annexure P-4) and the petitioner; having come to know of the relaxation in the minimum qualifications fixed by the Government of Punjab, he applied for the job as per the policy of the Government of Punjab, dated 08.11.2011 (Annexure P-1). He, therefore, contends that the decision of the respondents in rejecting

the claim of the petitioner would be against the very spirit of the policy, for which the same was framed and also in the light of the fact that the benefit which the petitioner is claiming is on the basis of the relaxed qualification as per the decision dated 03.03.2014 (Annexure P-2). He, thus, contends that the decision of the Deputy Commissioner, Mansa, District Mansa, dated 17.02.2016 (Annexure P-3) is not sustainable in the light of the fact that the respondents have not fulfilled the mandate of the decision as taken on 03.03.2014 (Annexure P-2).

On the other hand, learned counsel for the State has vehemently contended that Charanjeet Singh, the land owner has taken a chance with regard to applying for the job as per the Policy dated 08.11.2011 (Annexure P-1) qua his grand-son and having failed therein, as the claim of the grand-son was not covered by the definition of family as per the policy/guidelines, the claim of the petitioner is not sustainable. That apart, she contends that the petitioner has not submitted the application within a reasonable time and has filed the same at a belated stage and thus, his claim on merits could not have been considered. Apart from that, she contends that the cut off date i.e. 31.03.2013 having been fixed by the Competent Authority, the petitioner having not applied within the time stipulated, he cannot make a grouse that of he having submitted the application later. Prayer has, thus, been made for dismissal of the writ petition.

I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the records of the case.

The facts as submitted by the learned counsel for the

petitioner are not in dispute that initially, the original land owner Charanjeet Singh had applied for a job as per the policy of the Government of Punjab for his grand-son Amandeep Singh, which application was rejected on the ground of he being not eligible for consideration for the job as he did not fall within the definition of family. The plea primarily which has been taken by the petitioner is that of relaxation in the educational qualification in the decision of the Government of Punjab, dated 03.03.2014 (Annexure P-2), which is the decision of the Government realizing that the beneficiaries of the Policy dated 08.11.2011 (Annexure P-1) were not able to get appointments. In the relaxed qualifications, the minimum qualification was reduced from 10+2 to the same as was fixed for appointment to the posts as per the Punjab Public Civil Services Rules. This decision dated 03.03.2014 (Annexure P-2) was one which was taken by the Government of Punjab. After such decision, since the application of the grand-son of Charanjeet Singh, father of the petitioner was pending consideration, the petitioner could not have applied as only one application could be considered of a family. The rejection order of the application qua Amandeep Singh was conveyed on 25.07.2014 (Annexure P-4). It is, after that only, petitioner could have applied for the job as per the Policy dated 08.11.2011 (Annexure P-1).

Keeping in view the fact that the relaxation in the qualification has come into force after the decision dated 03.03.2014 (Annexure P-2), the cut off date i.e. 31.03.2013 as has been taken as a ground for rejection of the claim of the petitioner cannot be accepted as on 31.03.2013, as per the policy decision of the Government of Punjab, petitioner was not eligible as

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he was only middle pass and the minimum qualification as per the initial policy was 10+2 pass, which the petitioner was not. Since the petitioner had become eligible only after the decision dated 03.03.2014 (Annexure P-2), he had subsequently applied for the benefit of the policy dated 08.11.2011 (Annexure P-1).

In the light of the said factual position, the rejection of the application of the petitioner on the basis of the cut off date i.e. 31.03.2013 cannot sustain and therefore, the present writ petition is allowed and the impugned order dated 17.02.2016 (Annexure P-3) passed by the Deputy Commissioner, Mansa, District Mansa – respondent No.2 is hereby quashed. The Deputy Commissioner, Mansa, District Mansa – respondent No.2 is directed to consider and decide the claim of the petitioner afresh as per the policy of the Government of Punjab, dated 08.11.2011 (Annexure P-1) and the guidelines dated 03.03.2014 (Annexure P-2) within a period of three months by passing a speaking order.

In case the claim of the petitioner is found to be covered by the policy/guidelines issued by the Government of Punjab, ignoring the aspect that the last date of receipt of application was 31.03.2013, the petitioner be issued appointment letter forthwith.

(AUGUSTINE GEORGE MASIH)
JUDGE

09th January, 2020
Harish

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