

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

CWP-7803-2017 (O&M)

Date of decision: November 10, 2022

Hans Raj and others

.....Petitioners

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Padam Kant Dwivedi, Advocate for the petitioners.

Mr. Sudhir Nar, Senior Panel Counsel, UOI
for respondent No.1.

Mr. Saurabh Mohunta, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petitioners seek quashing of impugned order dated 31.10.2016 (Annexure P-6) passed by respondent No. 1 (Department of Atomic Energy) declining the request for suitable appointment of petitioner No. 3; letter dated 12.01.2017 (Annexure P-7) issued by respondent No. 3 offering appointment to petitioner No. 3 on the post of Helper (Group D). Further, a writ in the nature of mandamus has been sought directing the respondents to appoint petitioner No. 3 on a class III (Group C) post.

2. Vide notification dated 18.03.211, 100% land of petitioner No. 1 Hans Raj, measuring 49 kanals 10 marlas at village Jassaur Kheri, District Jhajjar was acquired by respondent No. 1 for public purpose of setting up the Global Centre for Nuclear Energy. A comprehensive policy (Annexure P-1) notified by the State of Haryana on 09.11.2010 was then in force, laying down, *inter alia*, the additional benefits for those land owners whose land

was/is acquired by the Government (hereinafter referred to as the Relief and Rehabilitation Policy). Relevant extract of the said policy is as under:-

“11. Benefits for the affected persons whose land is acquired for infrastructure projects other than those of HUDA, HSIIDC, and the HSAMB:

- i) While provision has been made for allotment of ‘oustee category plots’ in case of land acquired for development by HUDA, HSIIDC, and the HSAMB and for allotment of commercial sites/ industrial plots in case of those landowners whose 75% land gets acquired (subject to a minimum of one acre) for these organizations, extension of these additional benefits in case of the landowners whose land is acquired for public purposes other than these organizations, has not been found feasible. To that extent, it is also fortuitous.*
- ii) In order to balance this situation and partially compensate the landowners in this category, it has been decided that wherever 75% or more land of a landowner in a revenue estate, subject to a minimum of two acres, is acquired for other infrastructure projects, and thereby impacting his sustenance to a considerable extent, one dependent of the land-owning family would be provided a job in the Government or its Boards/ Corporations/ State PSUs in Group ‘D’ and ‘C’ categories, subject to the incumbent fulfilling the qualifications prescribed for such posts;*
- iii) Recognising that certain persons may indulge in large scale division of their holdings to acquire title to government jobs in this process, the entitlement of dependants would be based on the revenue records of four years prior to the date of issue of Notification under Section 4 of the Land Acquisition or a corresponding provision in the other statutes;*
- iii) The affected landowner would be required to file his claim-application in the prescribed Application Forms-7 and 8.*
- iv) While processing applications for this purpose, the applicant would first be considered for grant of a job in the Project for which the acquired land is used. In case of non-availability of adequate number of suitable jobs in the Project, the claim would be considered against vacancies available in the said department or its PSUs, failing which, the claim would be considered for employment in other departments/ organizations of the Government;*
- v) In case necessitating consideration of the applications for employment in the other Government Departments, the application receiving Department would forward such applications to the Financial Commissioner, Revenue & Disaster Management Department, along with a certificate that there are no vacancies in the Project/ Department/ its*

- PSUs so as to accommodate that there are no vacancies in the Project/ Department/ its PSUs so as to accommodate the applicants elsewhere. The office of FCR would compile all such applications and pass these on the office of Chief Secretary for appropriate action. Thereafter, the office of Chief Secretary would complete the process of employment.*
- vi) *While the landowners are expected to submit their claim applications for jobs within a period of six months of the announcement of the Award, there may be some isolated cases where the dependant may be a minor or decide to take up employment only after completion of his/ her studies. The erstwhile landowners would be allowed to defer their actual employment in such cases up to a period of 5 years from the date of Award. In such cases, the claim of the erstwhile landowner applicant would be processed and a letter of entitlement would be issued by the concerned Department.”*

3. Petitioners No. 2 and 3 are the son and grandson respectively, of petitioner No.1. Application of petitioner No. 3 was submitted on 15.06.2012 (Annexure P-2) to the Deputy Commissioner, Jhajjar and also to respondent No. 1 seeking job as a clerk (group C) in terms of the Rehabilitation Policy. On getting no response, the petitioners filed CWP No. 24362-2015 which was disposed of by this Court vide order dated 15.06.2012 (Annexure P-3) directing respondent No. 3 to decide the petitioners' application by passing a speaking order. Accordingly, speaking order dated 05.09.2016 (Annexure P-4) was passed by respondent No. 3 holding, *inter alia*, that petitioner No. 3, being the grandson of the land owner, is covered under the policy, being his dependent. Respondent No. 3 also sent letter dated 05.09.2016 (Annexure P-5) to respondent No. 1 (the Department of Atomic Energy) requesting the latter to provide suitable employment to petitioner No. 3 under the Relief and Rehabilitation Policy. However, order/letter dated 31.10.2016 (Annexure P-6) was issued by respondent No.1 stating *inter alia*, that no post had been sanctioned for the Global Centre for Nuclear Energy and declining

to appoint petitioner No. 3. Later, respondent No. 5 (Haryana State Council for Science & Technology) issued a letter dated 12.01.2017 (Annexure P-7) asking for the consent of petitioner No. 3 for his appointment as Helper (Group D/ Class IV). In his reply dated 24.01.2017 (Annexure P-8) petitioner No.3 declined offer of appointment on group D post and requested that as he was having qualification of B.A. and Diploma for 18 months study ZAD certified Accounts Professional from ZAD Education Society, Rohtak registered with Government of Haryana, he be appointed on a class III/Group C post, according to his qualifications. However, his request has not been acceded to by the respondents. Hence, the petition.

4. In joint written statement of respondents No. 3 to 5, it has been stated that there is no vacant post of Group C available with them. The request for appointment of petitioner No.3 on a class III/Group C post was referred to respondent No.2 and is under the latter's consideration. It was also pleaded that if a vacancy had existed, in the interest of efficiency of public service, the offer of appointment of petitioner No. 3 to Group C post would not have been made without a fitness test, even if he was eligible as per the qualifications laid down.

5. Stand in the written statement of respondent No. 2 (Revenue & Disaster Management Department) is that as per the Relief and Rehabilitation Policy, offer was made to petitioner No. 3 for appointment against an available post of Group D, as no post of Group C was available with respondent No.3. The claim of petitioner No.3 for employment under the Relief and Rehabilitation Policy was thus satisfied, and the non-acceptance of the said offer, does not entitle him to appointment on a Group C post. As

per the Relief and Rehabilitation Policy, it is for the concerned Department to offer appointment on post of Group C or Group D as per vacancy and in case of non-availability of adequate number of suitable jobs in the project for which the land was acquired, the claim would be considered against the existing vacancies available in the Department for whose project the land was acquired, or its PSUs, and failing that, the claim would be considered for employment in other departments/organizations of the Government.

6. Rival arguments on lines of the abovementioned pleadings have been advanced by the respective learned counsel for the parties.

7. To be noted here that the Relief and Rehabilitation Policy promulgated by the State Government is not and cannot be binding on respondent No. 1 (Union of India) or its officers and Public Sector Undertakings. This being the position, in my opinion, no direction can be given to respondent No. 1 to give appointment to petitioner No. 3 in terms of the policy *ibid* framed and promulgated by the State Government.

8. The plain language of para 11(ii) of the Policy contained at Annexure P-1 reproduced above, clearly shows that it entitles one dependent of the concerned land owning family a job in the Government or its Boards/Corporations/State PSUs in Group C and Group D, subject to the incumbent fulfilling the qualifications prescribed for such post. The policy *ibid* is a benevolent provision for the welfare of the landowning family, whose land is acquired for public purpose. Its provisions are to be construed in a manner so as to advance the object of the policy and not to defeat the same. The policy does not spell out or lay down any guidelines about situations in which appointments are to be given in Group C and others

when appointments are to be given in Group D, if the candidate fulfills the qualifications prescribed for both categories.

8.1 I am of the opinion that firstly, the rational, reasonable and fair interpretation of the language of the policy would be that, subject to fulfilling the qualifications prescribed for the posts, the person concerned is entitled to a choice for appointment on a post in either of the two categories i.e. Group C and Group D. In normal and natural course, the candidate having a choice, would opt for appointment on a higher post in Group C than a lower post in Group D, as was opted by petitioner No.3 in present case. Further, the policy being a benevolent provision for the welfare of the landowning family whose land is acquired for public purpose, its provisions are to be construed in a manner so as to advance the object of the policy and not to defeat the same. This being the position, it is held that subject to fulfilling the qualifications prescribed for the posts, the person concerned is entitled to a choice for appointment on a post in either of the two categories i.e., Group C and Group D.

9. In terms of policy contained at Annexure P-1, the only requirement for appointment is that the candidate should fulfill the prescribed eligibility conditions for the post in question. Hence, the respondents cannot insist on an additional condition of passing a fitness test by petitioner No. 3, if he is/was otherwise eligible as per the qualifications laid down. Accordingly, the contention to that effect is rejected.

10. A combined reading of clauses (iv) and (v) of para 11 of the policy (Annexure P-1) shows that the claim for appointment in such cases would first be considered against the vacancies available in the Project for

which the acquired land is used; in case of non-availability of adequate number of suitable jobs in the Project, the claim would be considered against vacancies available in the Department or its PSUs and failing that it would be considered in other departments/Organizations of the Government. Further, in cases necessitating the consideration of the applications for employment in other Government Departments, the applications receiving Department would forward such applications to the Financial Commissioner, Revenue & Disaster Management Department (respondent No. 2 herein) along with a certificate that there are no vacancies in the Project/Departments/its PSUs so as to accommodate the applicants elsewhere and the FCR (respondent No. 2) would compile all such applications and pass them on to the office of the Chief Secretary for appropriate action. Thereafter, the Chief Secretary would complete the process for employment. In present case, respondents No.3-5 pleaded that since there was no vacant post of Group C available with them, hence the case was referred to respondent No. 2. There is nothing in the pleadings or otherwise shown on record if in terms of policy *ibid*, respondent No. 2 even forwarded the application of petitioner No.3 to the office of the Chief Secretary for appropriate action and for completing the process for employment. It is thus clear that respondent No. 2 did not pass on the application of petitioner No. 3 to the office of the Chief Secretary for appropriate action and for completing the process for employment as per the prescribed procedure. Thus, for no fault of petitioner No. 3, he remained deprived of an opportunity for employment on a group C post in other Government Departments.

11. Offer made vide letter dated 12.01.2017 (Annexure P-7) for appointment on the post of Helper (Group D) was declined by the petitioner through his letter dated 24.01.2017 (Annexure P-8) and does not now survive. It need not therefore, be quashed.

12. It is not disputed that petitioner No. 3 fulfils the eligibility requirements for appointment on a Group C post and has made a choice for the same. More than five years have passed since respondent No. 3 wrote letter dated 24.05.2017 (Annexure R-3/3) to respondent No. 2 stating that a vacant Group C post was not available in that Department, the request of petitioner No. 3 had been forwarded to respondent No. 2 on file on 08.02.2017 for taking decision in the light of the R&R policy, but the file had since then, not been received back. It can be hoped, that by now, a vacancy in Group C post may have become available in that Department. In the circumstances, it would be just and proper to direct respondent No. 2 to co-ordinate with respondents No. 3-5 for processing the claim of petitioner No. 3 for appointment as per eligibility on a Group C post against an available vacancy with them. If even now, no such vacancy is available with respondents No. 3-5, then respondent No. 2 shall pass on the application of petitioner No. 3 to the office of the Chief Secretary for completing the process for employment of petitioner No. 3 on a group C post in the other Departments of the State Government.

13. Accordingly, the writ petition is disposed of with a direction to respondents No. 2 to co-ordinate with respondents No. 3-5 for processing the claim of petitioner No. 3 for appointment as per eligibility, on a Group C post against an available vacancy with respondents No. 3-5. If even now,

no such vacancy is available with respondents No. 3-5, then respondent No. 2 shall pass on the application of petitioner No. 3 to the office of the Chief Secretary for completing the process for his employment on a group C post in the other Departments of the State Government.

14. Necessary exercise as above be carried out by respondents No. 2 to 5 within four months of the supply of certified copy of this order.

(ARUN MONGA)
JUDGE

November 10, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No