

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

283 (44 connected matters) + 287 (04 connected cases)

Date of Decision: 07.08.2023.

**CWP-5001-2017 (O&M).
SATENDER V/S STATE OF HARYANA AND OTHERS**

**CWP-3444-2017 (O&M).
KARAMBIR SINGH V/S THE STATE OF HARYANA AND
OTHERS**

**CWP-7988-2018 (O&M).
RAJENDER SINGH V/S STATE OF HARYANA AND ORS**

**CWP-14788-2018 (O&M).
KAPIL V/S STATE OF HARYANA AND ORS**

**CWP-22658-2018 (O&M).
SANDEEP V/S STATE OF HARYANA AND OTHERS**

**CWP-25629-2018 (O&M).
SUNIL KUMAR V/S STATE OF HARYANA AND OTHERS**

**CWP-25631-2018 (O&M).
PARVEEN V/S STATE OF HARYANA AND OTHERS**

**CWP-25623-2018 (O&M).
REENA V/S STATE OF HARYANA AND OTHERS**

**CWP-25620-2018 (O&M).
PARDEEP KUMAR V/S STATE OF HARYANA AND ORS**

**CWP-9443-2019 (O&M).
SANJAY SHARMA V/S STATE OF HARYANA AND OTHERS**

**CWP-9458-2019 (O&M).
RENU BALA V/S STATE OF HARYANA AND ORS**

**CWP-5003-2017 (O&M).
ANIL V/S STATE OF HARYANA & ORS**

CWP-5112-2017 (O&M).
MANJEET BISLA V/S STATE OF HARYANA AND ORS

CWP-5158-2017 (O&M).
DINESH KUMAR V/S STATE OF HARYANA AND OTHERS

CWP-8481-2017 (O&M).
KALA V/S STATE OF HARYANA AND ORS

CWP-9765-2017 (O&M).
DEEPAK V/S STATE OF HARYANA AND ORS

CWP-9812-2017 (O&M).
MUKESH KUMAR V/S STATE OF HARYANA AND ORS

CWP-10169-2017 (O&M).
RAKESH KUMAR V/S STATE OF HARYANA AND ORS.

CWP-27931-2017 (O&M).
BALJIT SINGH V/S STATE OF HARYANA AND ORS

CWP-4974-2018 (O&M).
SULTAN V/S STATE OF HARYANA AND ORS

CWP-1275-2018 (O&M).
ROHIT V/S STATE OF HARYANA & ORS

CWP-4566-2018 (O&M).
SUNIL V/S STATE OF HARYANA AND ORS

CWP-17612-2018 (O&M).
RAM MEHAR V/S STATE OF HARYANA AND OTHERS

CWP-2896-2019 (O&M).
RAJESH KUMAR V/S STATE OF HARYANA AND OTHERS

CWP-2170-2019 (O&M).
MANISH KUMAR V/S STATE OF HARYANA AND ORS

CWP-11468-2017 (O&M).
KRISHAN KUMAR V/S STATE OF HARYANA AND ORS

CWP-12695-2018 (O&M).
ROCKY V/S STATE OF HARYANA AND ORS

CWP-12769-2018 (O&M).
GURU BACHAN V/S STATE OF HARYANA AND ORS

CWP-25815-2018 (O&M).
BIJENDER SINGH V/S STATE OF HARYANA AND ORS

**CWP-25821-2018 (O&M).
KARAMBIR & ANR V/S STATE OF HARYANA & ORS**

**CWP-25822-2018 (O&M).
SHIV RATTAN V/S STATE OF HARYANA AND OTHERS**

**CWP-15534-2019 (O&M).
BASAU AND OTHERS V/S STATE OF HARYANA AND OTHERS**

**CWP-25825-2018 (O&M).
JAIBHAGWAN V/S STATE OF HARYANA AND OTHERS**

**CWP-33954-2019 (O&M).
SATYAWAN V/S HARYANA POWER GENERATION
CORPORATION LTD AND ORS**

**CWP-22699-2018 (O&M).
ASHOK KUMAR V/S STATE OF HARYANA AND ORS**

**CWP-33974-2019 (O&M).
PREM PARKASH V/S HARYANA POWER GENERATION
CORPORATION AND ORS**

**CWP-3449-2017 (O&M).
RAVISH KUMAR V/S THE STATE OF HARYANA AND OTHERS**

**CWP-10215-2019 (O&M).
AKASH V/S STATE OF HARYANA AND OTHERS**

**CWP-31884-2019 (O&M).
SURAJ BHAN V/S HARYANA POWER GENERATION
CORPORATION LTD AND OTHERS**

**CWP-31911-2019 (O&M).
DIWAN SINGH @ DEVA SINGH V/S HARYANA POWER
GENERATION CORPORATION (HPGC) AND OTHERS**

**CWP-32501-2019 (O&M).
SATYAWAN V/S HARYANA POWER GENERATION
CORPORATION LTD AND OTHERS**

**CWP-32534-2019 (O&M).
JOG RAJ V/S HARYANA POWER GENERATION CORPORATION
LTD AND OTHERS**

**CWP-32577-2019 (O&M).
KAVAR BHAN @ KAUR BHAN V/S HARYANA POWER
GENERATION CORPORATION LTD AND OTHERS**

**CWP-17922-2021 (O&M).
NATHIA DEVI V/S HARYANA POWER GENERATION
CORPORATION LTD AND ORS**

**CWP-26665-2018 (O&M).
SATISH V/S STATE OF HARYANA & ORS**

**CWP-14343-2019 (O&M).
KAPIL KUMAR V/S STATE OF HARYANA AND ORS**

**CWP-14360-2019 (O&M).
RAJ BALA V/S STATE OF HARYANA AND ORS**

**CWP-20519-2019 (O&M).
SATISH KUMAR V/S STATE OF HARYANA AND OTHERS**

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Mohit Garg, Advocate,
Mr. Mohit Saini, Advocate,
for the petitioner in CWP No.5001, 5003, 11468, 16580 of
2017 and CWP No.17612, 4566, 25815, 4974, 1275 of 2018
and CWP No.2170 of 2019.

Mr. Kulwant Singh Dhanora, Advocate,
For the petitioner in CWP-27603-2018.

Mr. Zorawar Singh Chauhan, Advocate,
for the petitioner in CWP No.51112, 5158, 8481, 9765, 9812,
10169, 27931 of 2017, 2896 of 2019.

Mr. Vijay Pal, Advocate,
Mr. Ashish Kumar, Advocate
for the petitioner in CWP No.3444 of 2017, CWP No.7988,
14788, 22658, 25620, 25623, 25628, 25631, of 2018 and CWP
No.9443 and 9458 of 2019.

Mr. Satyam Sachdeva, Advocate, for
Mr. Sandeep K. Sharma, Advocate,
for the petitioner in CWP No.26665 of 2018 and CWP
No.10215, 14343 and 14360 of 2019.

Mr. B.R. Mahajan, Sr. Advocate, with
Mr. Anil Chawla, Advocate
Ms. Nikita, Advocate,
Mr. R.S. Longia, Advocate,
Mr. Gaurav Jindal, Advocate,
Mr. Vivek Chauhan, Advocate,
Ms. Chavi Sharma, Advocate,
Mr. Hitesh Pandit, Advocate,

Ms. Suman Rani, Advocate,
for the respondents HPCGCL.

Mr. Sunil Kumar, Advocate, for
Mr. Samarth Sagar, Advocate,
for respondent no.5 in CWP-27931 of 2017.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present batch of 48 writ petitions have been filed for seeking issuance of directions to the respondents to grant employment to the petitioner in Rajiv Gandhi Thermal Power Plant as per the Communication bearing Memo No.12/03/2007-3 Power dated 05.07.2007 (Annexure P-1) of the Power Department, Government of Haryana read with the decision of the Cabinet dated 30.01.2012 circulated vide Memo No.Ch-138/DSC-3/Vol-III dated 14.02.2012 (Annexure R-1).

Learned counsel for the petitioner(s) contend that the petitioner(s) are the residents of village Khedar, District Hisar where the Haryana Power Generation Corporation Limited intended to set up Rajiv Gandhi Thermal Power Plant. The land was accordingly acquired by the Land Acquisition Collector for the above public purpose. It is averred that to facilitate acquisition, various rehabilitating announcements were made by the Chief Minister, reflected from Memo No.12/3/07-3 Power dated 05/06.07.2007, following decisions were conveyed:- .

“To implement the announcements made by Hon'ble Chief Minister, Haryana on 19.05.2007 in Distt. Hissar, the State Government have decided item wise as under-

(a) Employment would be provided to one member of each of the families of village Khedar (Hisar) in the Thermal Plant,

whose land has been acquired for the Thermal Power Plant Khedar, (Hisar) on the basis of qualification and eligibility criteria.

The following steps may kindly be initiated to implement the above decision:-

(i) The first stage will be to make a list of families whose land had been acquired. Family would mean as it stood on the date the land was acquired and not further subdivisions and subsequent families created on the basis of partition. This will mean that a member of family as existing on the date of acquisition will be given a job on the basis of qualification and eligibility.”

xxx	xxx	xxx
xxx	xxx	xxx

It is submitted that as per the said decision one member of each of the families of village Khedar, whose land has been acquired for Rajiv Gandhi Thermal Power Plant, was to be given employment on the basis of qualification and eligibility criteria. ‘Family’ was to mean, as it stood on the date when the land was acquired and no further sub divisions or subsequent partition was admissible.

Pursuant to the aforesaid Chief Minister Announcement, the matter was put up before the Council of Ministers for laying down the Rehabilitation And Resettlement Scheme. In the said scheme, the condition of providing job to a family member of each of the family was reiterated. The relevant extract of the same reads thus:-

“2. The Prime Minister of India laid the foundation stone of 2X600 MW, Rajiv Gandhi Thermal Power Project at Khedar on 19 May 2007. On this occasion, the Chief Minister of Haryana

announced that employment would be provided to one member of each of the families of village Khedar whose land has been acquired on the basis of qualification and eligibility criteria. To implement the announcement made by the Chief Minister on 19th May 2007. State Government (Power Department) issued guidelines vide memo No. 12/3/2007-3 Power dated 05/06-07.2007 (Annex-1). According to these instructions, employment is to be given in the power plant against the posts available in Class-III & Class-IV categories and as per the qualifications required for recruitment of these posts.

3. Since the land for RGTPP was acquired during the period when Relief and Rehabilitation Policies were silent about grant of employment, after consultations, to fulfill the CM's announcement it was decided to provide job to a family member of each of the land oustees' who had contributed more than or equal to two acres area of land acquired for the establishment of 2x600 MW Rajiv Gandhi Thermal Power Plant (RGTPP). Khedar as a special dispensation. It was also decided with the approval of Chief Minister that:-

- (i) One family member whether son, daughter, daughter-in-law or grandson/granddaughter (Pota/Poti) would be provided a job. For maternal grandchildren (Dohata/Dohati) the job will be provided if the person lives in village Khedar as verified through Deputy Commissioner Hisar.*
- (ii) The applicants either illiterate or less than middle pass will be offered a job as a Beldar or unskilled worker for which no educational qualification is required.*
- (iii) The applicants who are overage will be considered for appointment by relaxing the age beyond 40 years.*
- (iv) 10 applicants who are presently underage will be considered for employment on attaining the age of 18 years.*

- (v) *The appointment letters be handed over immediately and ex-post facto approval of the cabinet be obtained subsequently, after obtaining necessary relaxation from the Chief Secretary to Government Haryana and the Finance Department.*”

Learned counsel for petitioner(s) contend that as a family, they held more than or equal to 2 acres of land as on the date of acquisition and thus were fully eligible for appointment in terms of the announcement dated 05.07.2007 read with the policy decision approved by the Cabinet as per which one member of the family, which has been so defined in the policy, was entitled to the appointment. It is contended that the petitioners were seeking appointment under the aforesaid policy. It is also submitted that other members of the family had specifically given affidavits/undertakings that they would not stake claim for seeking appointment and would have no objection to the appointment being offered to the petitioner/identified member of the family. The claim had been filed in terms of the decision taken by the Council of Ministers.

It is also argued that the issue with respect to entitlement of the residents of village Khedar for appointment as well as definition of ‘family’ was subject matter of consideration in **CWP No.6505 of 2013, titled as Dharmender Singh Vs. State of Haryana and others which was decided vide judgment dated 26.11.2015.** While allowing the writ petitions filed by the petitioners therein, the Single Bench of this Court observed as under:-

“The question which arises for consideration is as to whether this can be a valid ground to reject his claim?”

In the written statement the contents of the Special Scheme have been reproduced as under:

“Hon'ble Chief Minister has approved the special scheme of employment to one eligible member of each of the families of oustees of Thermal Power Plant, Khedar (Hisar). Based on the proposal, the scheme be formulated and submitted for ex-post facto approval of the Cabinet. This scheme emanates out of CM announcement dated 19.05.2007 as a special dispensation for the families whose more than 2 acres of land has been acquired for Rajiv Gandhi Thermal Power Plant, Khedar (Hisar). He has also approved the proposal except that no relaxation in the educational qualification is to be given who are under middle or illiterate for the post of Peon. These people be employed as Beldar or unskilled workers for which no educational qualification is required. He has also ordered that necessary relaxation from CS and FD be obtained in due course. Meanwhile the appointment letters be given as has been proposed in the note of FC, Power on pre-page 35/N.”

The aforesaid indicates that this is a special Scheme for providing employment to 'one eligible member' of 'each of the families' where more than 2 acres of land of the family has been acquired for the Rajiv Gandhi Thermal Power Plant.

As per the communication Annexure P-6 sent to the respondent-Corporation detailing the steps required to be taken, the first step to be taken was to make a list of the families whose land had been acquired. It is specified therein that family would mean as it stood on the date the land was acquired and not the further sub-divisions and the separate family units created on the basis of partition.

It indicates that the focus of the Scheme is 'family' and not the individual members thereof. Accordingly, the total land of the family that has been acquired is to form the basis of the eligibility for employment and not the land acquired of each

individual member thereof. It has been provided that only one member of the family will be provided employment even if the land belonging to the family that has been acquired is in excess of 2 Acres. The Scheme does not contemplate that if more than two acres of land of more than one member of a family is acquired, each one of them will be given employment. This is because the Scheme envisages employment for only one member in the family. Conversely, the Scheme cannot be interpreted in a manner that for availing the benefit of the Scheme, more than two acres of land of each individual member thereof should have been acquired. Such an interpretation is contrary to the plain terms of the Scheme. Besides, it would render the Scheme totally illusory, as it would deny the benefit of the Scheme to the small and marginal farmers who are most in need of such a beneficial Scheme.

Thus, the ground for denying the benefit of the Scheme to the petitioner on the ground that only 6 kanal 11 marla of his land has been acquired, which is less than 2 acres cannot be sustained. As 26 kanals 8 marlas land of the family of the petitioner has been acquired, it is held that one member of the family of the petitioner is entitled to claim employment under the Scheme.

Accordingly, both the petitions are allowed.

It is directed that the petitioners be considered for employment under the Scheme. The needful be done expeditiously and subject to fulfilling the other necessary conditions, the petitioners be offered employment within a period of two months from the date of receipt of certified copy of this order.

As there is no averment in CWP No.13142 of 2014 that any affidavit has been furnished by other members of the family of the petitioner that they have no objection to the employment under the Scheme being given to the petitioner and that they would not raise any separate claim for

employment under the Scheme, his case would be considered subject to his furnishing such an affidavit.

The above said judgment was challenged by the Haryana Power Generation Corporation in **LPA No.1297 of 2016 titled as Haryana Power Generation Corporation Limited and others Vs. Dharmender Singh and another, which was decided vide order dated 18.10.2016.** The judgment passed by the Single Judge was affirmed with partial modifications. The said judgment is extracted as under:-

“The controversy pertains to eligibility of the Ist respondent for appointment in the Thermal Power Plant in lieu of acquisition of the land of his family as per State Government Policy. Learned Single Judge has allowed the claim of respondent No.1 but the uncertainty arising due to multiple claims has prompted the Power Generation Corporation to file this appeal.

Following order was passed by the Court on 28.9.2016.

“It is contended, inter alia, that one member of the family is entitled to employment in the Thermal Plant if more than two acres of land of such family has been acquired. In the case of the respondent (s), it is stated that if land of the entire family is taken into account, then the acquired land is more than two acres. It is further stated that the Corporation has no objection against appointment of one of the family member but the respondent as well as his brother both are claiming such employment. It is contended that respondent's brother has filed a separate writ petition seeking employment under the Scheme. It is explained that the acquired land belongs to the entire family of the respondent and was not exclusively owned by him.

Notice of motion for 18.10.2016.

Notice re: condonation of delay as well.

The claim of the respondent for appointment shall be considered provided that all his family members including his brother (s) give consent affidavits to the satisfaction of the Competent Authority.

Let a copy of this order be placed on the file of connected matter.”

In deference thereto, it is stated by counsel for the Ist respondent that all his family members have already given affidavits and they are still ready and willing to give affidavits in support of the fact that (i) the acquired land of their family is more than two acres (ii) no other family member except respondent No.1 (Dharmender Singh) has applied or will apply in future to claim employment.

In this view of the matter, the appeal is disposed of with a direction that on fulfillment of the above-stated requirements, the claim of respondent No.1 for appointment be considered within one month.”

Learned counsel for the petitioner(s) contend that they have no objection to the present petitions being disposed of in terms of the order dated 18.10.2015 passed by a Division Bench of this Court in LPA 1297 of 2015 titled as **Haryana Power Generation Corporation Limited and others (supra)**.

Learned counsel for the respondents, on the other hand, contend that there are certain disputed questions of fact that would arise and the eligibility of the petitioner(s) as per the terms and conditions of the Scheme is still to be determined. It is also suggested that there are certain families where more than one member of the family has already been given appointment.

I have heard the learned counsel for the respective parties and have gone through the documents appended with the petitions and the judgments cited by them in support of their contentions.

Learned counsel for the respondents could not dispute that the issue in question was examined by this Court in CWP No.6505 of 2013 which was decided vide judgment 26.11.2015 and the LPA No.1297 of 2016 preferred against the said writ petition also stands disposed of vide order dated 18.10.2016. The above said orders have thus attained finality.

In so far as the objection with respect to the disputed questions of fact is concerned, the said objection is untenable since the LPA Bench had only directed that the respondent Haryana Power Generation Corporation shall consider the claims of the petitioner(s) in terms of the policy and after obtaining affidavits from the other family members including the brothers for appointment to be offered to only one member of the family. The affidavits were required to state the following:-

- (i) Acquired land of the family is more than 2 acres and
- (ii) No other family member has applied or will apply in future to claim employment.

Once the petitioner(s) are submitting that they are eligible as per the Scheme and are willing to submit the affidavits/undertaking as per the judgment, there is no reason why the claim be not considered for their appointment.

In so far as the contention of the respondents that more than one member in same family has been granted appointment is concerned, such violation committed by the respondents calls for action against

officials responsible for violation. The same cannot be read as a basis to decline consideration of the claim of those who claims to be eligible. Instead of taking appropriate action against those who violated the Scheme, the respondents suggest to strike a balance by not considering claim of others. Such an approach is impermissible in law.

The above said judgments having attained finality, there is no reason as to why the cases of the petitioner(s), who claim to be similarly placed, ought not to be considered by the respondent-Corporation under the Policy.

The present petitions are accordingly disposed of, without commenting on the merits of the claim of the petitioner(s), with a direction to the respondents Corporation to examine the eligibility of the petitioner(s) in terms of the judgment dated 26.11.2015 read with the order dated 18.10.2016 and the Policy decision taken by the Government. The applicant/petitioner(s) shall also furnish the requisite documents/affidavits as required in terms of the order within a period of 02 months of the receipt of certified copy of this order. On receipt of such applications/affidavits, the respondents shall take a considered decision, thereupon in terms of the Policy and the judgments after affording an opportunity of hearing to the concerned respondents and pass a speaking order within a period of 03 months thereafter.

Needless to mention that in case the applicants/petitioner(s) are found entitled to the appointment as per the decision taken by them, appropriate necessary action shall be taken within a further period of 04 months thereafter.

Pending misc. applications, if any, in the present batch of writ petitions shall also stand disposed of accordingly.

A photocopy of the order be placed on the file of each connected case.

August 07, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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