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

CWP-10746-2017 (O&M)
Date of Decision: 19.07.2024

Jatin Narwal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Zorawar Chauhan, Advocate for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Ms. Nikita Goel, Advocate for respondents No.2 to 4.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 07.03.2017 (Annexure P-6) passed by respondent No.3 with further prayer to direct the respondents to consider the candidature for recruitment and to appoint the petitioner on technical/clerical post in Deen Bandhu Chottu Ram Thermal Power Plant, Yamunanagar.

2. Learned counsel for the petitioner submitted that it is a case where the State of Haryana by way of a policy decision had acquired land some land for the purpose of setting up of thermal plants at various places in Haryana and a specific policy was framed with regard to thermal plant Khedar at Hisar and also at Jhajjar. So far as the land of the family of the petitioner which is situated in District Yamunanagar is concerned, the



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acquisition was made in the year 1983 and thereafter again for the second time acquisition of the land took place in the year 2009, for the purpose of setting up of Deen Bandhu Chottu Ram Thermal Power Plant, Yamunanagar. He further submitted that so far as the policy of grant of benefit of employment to the one member of a family of the outstees is concerned, the policy which was framed by the State of Haryana is applicable to all the thermal power plants including the thermal power plant at Yamunanagar and regarding which there is no dispute. He further submitted that as per the policy an employment is to be offered to one member of a family whose acquired land is more than two acres and consequently when the land of the family of the petitioner was acquired, he in pursuance of the policy had filed an application dated 28.06.2014 vide Annexure P-2 to the concerned competent authority. He submitted that his application was processed by the concerned department and an objection was raised by the Nodal Officer-cum-Executive Engineer, Yamuna Nagar vide Annexure P-3 wherein it has been so stated that two applications were received against the same land i.e. one was by the present petitioner and another received from one Sahab Singh and a request was made to the petitioner to attend the shortcomings at the earliest as the last date for submission of application was 31.08.2014. He further submitted that the petitioner apprised the respondents that the petitioner was eligible and he was to be granted the employment in terms of the policy and even otherwise also the entire property was a joint property and in view of the policy of the State of Haryana other members of the joint family belonging to great grandfather were wanting employment. He further submitted that the aforesaid application was



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never decided by the respondents and was left at the stage of raising of objections only because no order showing that the aforesaid application has been decided, is placed on record by the respondents. He submitted that in this way the aforesaid application kept on pending and in the meantime a family settlement had been arrived at and the aforesaid Sahab Singh had furnished an affidavit relinquishing his claim in this regard. Learned counsel further submitted that the petitioner was advised to file a fresh application and in pursuance thereof he filed a second application on 15.07.2016 vide Annexure P-4. However his second application was rejected vide Annexure P-6 only on the ground that his application is time barred. He further submitted that Annexure P-6 is under challenge in the present writ petition.

3. Learned counsel for the petitioner submitted that as per the reply filed by the respondents the cut off date for submitting applications for the remaining oustees was stated to be 21.02.2015. He further submitted that the application of the petitioner at Annexure P-4 has to be related back to Annexure P-2 which is the initial application because his earlier application was never rejected and is still under consideration and therefore the petitioner could not have been non-suited only on the ground that his application was time barred. Learned counsel also submitted that considering the fact that the petitioner is entitled for employment in terms of the policy and because of the aforesaid hyper-technical objection, the petitioner cannot be non-suited especially in the light of the aforesaid facts and circumstances.

4. On the other hand, Ms. Nikita Goel, Advocate for respondents No.2 to 4, submitted that so far as the first application of the



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petitioner is concerned, the same could not be processed further because of the reason that it is against the same land, upon which two persons from the same family had applied for employment and therefore objections were invited from the petitioner but he neither filed any objection nor he has annexed any document in this regard. She further submitted that thereafter petitioner filed a fresh application on 15.06.2016 vide Annexure P-4. She submitted that the employment has already been offered to 59 oustees and so far as remaining oustees are concerned again a fresh process was started and cut off date for submitting the application was fixed as 21.02.2015. She submitted that in this way the application of the petitioner (Annexure P-4) was rejected being time barred.

5. She further submitted that even otherwise also the petitioner was to be considered for employment because on the basis of the policy of the Government that a family member of the oustees whose land of more than 02 acres was acquired was to be granted the employment. Whereas in the present case, the real uncle of the petitioner was granted employment and therefore applying the criteria of two acres, the petitioner is not even entitled otherwise on merits.

6. I have heard learned counsels for the parties.

7. There are two issues involved in the present case. Firstly, as to whether application of the petitioner could have been rejected on the ground that it was time barred or not and secondly as to whether the petitioner was entitled for employment in terms of the policy which states that a family whose land of more than 02 acres was acquired, then one member of the family would be entitled for employment. So far as the first issue is concerned, a perusal of the documents at Annexures P-2 to P-



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4 and Annexure P-6 would show that the petitioner had earlier filed an application vide Annexure P-2 on 28.06.2014 which was much prior to the cut off date. The petitioner was then informed by the respondents on 26.08.2014 vide Annexure P-3 whereby only an objection was raised seeking clarification and there is nothing on record to show that his application was rejected by any authority. Thereafter, when the second round started with regard to the remaining oustees then a fresh application was filed by the petitioner on 15.07.2016 which was beyond the cut off date. However, since his earlier application was never rejected and nothing has been placed on record, this Court is of the considered view that his second application would relate back from the date of his first application and therefore he could not have been non-suited only on the ground of being time barred. It is, therefore, held that the application of the petitioner was required to have been processed and could not have been rejected on the ground of being time barred especially in view of the fact that policy of Government was a beneficial and social welfare policy.

8. So far as the second aspect is concerned, it has been submitted by learned counsel for the respondents No.2 to 4 that even on merits the petitioner is not entitled because one member of the family has already availed of the benefit of employment and therefore the petitioner is not entitled.

9. After hearing learned counsel for the parties, the petition is partly allowed. The impugned order dated 07.03.2017 at Annexure P-6 whereby the application of the petitioner was rejected being time barred is hereby set aside. The respondent-State is directed to consider and process the application of the petitioner after consultation with respondent Nos.2

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to 4 by ignoring that the application is time barred and thereafter to proceed further strictly in accordance with law. The aforesaid respondents shall consider the claim of the petitioner for seeking employment on the basis of the policy on its own merits including the objection raised by learned counsel for respondent No.2 that since one member of the family has already been granted employment, the petitioner was not entitled. After considering the claim of the petitioner, respondent No.1 will pass a detailed speaking order in this regard. In case the petitioner is found to be entitled for employment then further process shall be adopted for granting employment within next two months.

(JASGURPREET SINGH PURI)
JUDGE

19.07.2024
shweta

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