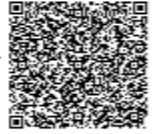


CWP-28411-2025

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

**CWP-28411-2025 (O&M)
Date of decision: 08.12.2025**

Karamvir

... Petitioner

Vs.

Haryana Power General Corporation Limited and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. B.K. Bagri, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* seeking quashing of the letter/memo dated 19.05.2025 (Annexure P-15), vide which representation dated 25.03.2025 (Annexure P-13) submitted by the petitioner for grant of service benefits/deemed date of appointment from the year 2014 was rejected and further to direct the respondents to grant the benefit of deemed date of appointment from the year 2014 along with all the

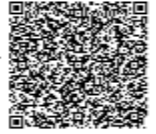


consequential benefits.

2. Learned counsel for the petitioner, *inter alia*, contends that admittedly, the land owned by the family of the petitioner was acquired by Arawali Power Company Private Limited for setting up a Thermal Power Project in District Jhajjar in the year 2007. Subsequently, the Government of Haryana notified the Rehabilitation and Resettlement Policy dated 09.11.2010 (for short 'policy'), as discernible from Annexure P-1. The said policy was widely published with an aim to provide employment to one member of each family, from whom more than 02 acres of land was acquired for the aforesaid project. Further, since the petitioner was fully eligible for appointment in terms of the policy (Annexure P-1), vide letter/memo dated 02.06.2014 (Annexure P-3), the Sub Divisional Officer (Civil), Jhajjar forwarded his case for grant of employment to respondent No.3. It is further contended that vide memo dated 18.06.2015 (Annexure P-4), name of the petitioner was confirmed in the list of 23 applicants in addition to the list of 293 land oustees.

3. Initially, petitioner's claim was rejected without assigning any reasons. Aggrieved by the same, the petitioner approached this Court by way of filing a writ petition i.e. **CWP-20274-2018**, which was disposed of vide order dated 08.08.2023 (Annexure P-11) with a direction to the respondents to examine his eligibility for the employment opportunity in terms of the policy (Annexure P-1). In compliance thereof, on 19.03.2025 (Annexure P-12), the

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respondents issued an offer of appointment to the petitioner for the post of Peon (Field). The petitioner joined duty on the said post immediately. Thereafter, on 25.03.2025 (Annexure P-13), he made a representation to respondent No.1 seeking deemed date of appointment from the year 2014, at par with his identically circumstanced counterparts, in terms of the appointment letters issued to them (Annexures P-16 to P-24, respectively). However, the representation dated 25.03.2025 (Annexure P-13) was rejected vide impugned letter/memo dated 19.05.2025 (Annexure P-15) stating that it was “*not found feasible for acceptance*”.

4. Learned counsel for the petitioner refers to the written statement filed on behalf of all the respondents-Corporation and submits that a different yardstick has been adopted to assess the case of the petitioner. It was stated therein that the date of appointment of other land oustees was deemed to be from the date of recommendation of their cases because their individual share in the acquired land was 02 acres or more, however, the individual share of each member of the family of the petitioner was found to be less than 02 acres. Once the petitioner has been found entitled to employment and has been offered appointment, he cannot be denied the same deemed date of appointment, as granted to other similarly situated persons. As such, the impugned letter/memo (Annexure P-15) has been issued without recording any plausible reason making it arbitrary, discriminatory and violative of Article 14 of the Constitution of India.

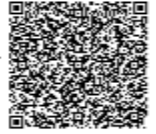


5. *Per contra*, learned counsel for the respondent-Corporation opposes the prayer made by the petitioner and submits that that doctrine of *res judicata* would operate in the present case as no claims regarding grant of benefits of deemed date of appointment from the year 2014 was raised by the petitioner in the earlier writ petition i.e. **CWP-20274-2018**. Further, employment opportunity provided to the land oustees by the policy (Annexure P-1) cannot be interpreted as a vested or enforceable right, as land acquisition does not automatically entitle them to employment.

6. In rebuttal, learned counsel for the petitioner contends that the first petition i.e. **CWP-20274-2018** filed by the petitioner was disposed of with a direction to consider his claim. As such, the respondent-Corporation was obligated to decide all aspects including the issue of deemed date of appointment.

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that in compliance of the order dated 08.08.2023 (Annexure P-11) passed by this Court in **CWP-2074-2018**, the respondents found the petitioner eligible and suitable for employment. Resultantly, he was offered appointment to the post of Peon (Field) in terms of the policy (Annexure P-1).

8. Admittedly, other identically circumstanced employees, as listed in para No.17 of the paper book, have already been granted the benefit of deemed date of appointment. Further, the material available on the record



does not suggest that the case of the petitioner is distinct from that of his counterparts, especially since their case was recommended to the competent authority on 02.06.2014 (Annexure P-3) together.

9. If a distinction must be drawn, it must rest on a clear intelligible differentia that bears a rational nexus to the objective sought to be achieved by such distinction. In the absence of these essential characteristics, this distinction would fall foul of the constitutional ethos and amounts to discrimination. An arbitrary act strikes at the very heart of the mandate of Article 14 of the Constitution of India, which not only includes equality before law but also equal protection of law. Reliance in this regard can be placed upon a judgment rendered by the Constitution Bench of the Hon'ble Supreme Court in ***E.P. Royappa Vs. State of Tamil Nadu, (1974) 4 SCC 3***, wherein, speaking through Justice P.N. Bhagwati, opined as follows:

“85. The last two grounds of challenge may be taken up together for consideration. Though we have formulated the third ground of challenge as a distinct and separate ground, it is really in substance and effect merely an aspect of the second ground based on violation of Articles 14 and 16. Article 16 embodies the fundamental guarantee that Article 14 as there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Though enacted as a distinct and independent fundamental right because of its great importance as a principle ensuring equality of opportunity in public employment which is so vital to the building up of the new classless egalitarian society envisaged in the Constitution, Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words, Article 14 is the genus while Article 16 is aspects. Article 16 gives effect to the

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doctrine of equality in all matters relating to public employment. **The basic principle which, therefore, informs both Articles 14 and 16 is equality and inhibition against discrimination.** Now, what is the content and reach of this great equalising principle? It is a founding faith, to use the words of Bose J., "a way of life", and it must not be subjected to a narrow pedantic or lexicographic approach. We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed cabined and confined" within traditional and doctrinaire limits. **From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14, and if it affects any matter relating to public employment, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles applicable alike to all similarly situated and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality.** Where the operative reason for State action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible considerations, it would amount to mala fide exercise of power and that is hit by Articles 14 and 16. Mala fide exercise of power and arbitrariness are different lethal radiations emanating from the same vice in fact the matter comprehends the former. Both are inhibited by Articles 14 and 16."

(emphasis added)

10. Adverting to the matter at hand, the petitioner and 07 other similarly situated persons were recommended by the Sub Divisional Officer

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(Civil), Jhajjar for grant of employment vide letter dated 02.06.2014 (Annexure P-3). The name of the petitioner also figures in the letter dated 18.06.2015 (Annexure P-4), whereby names of 23 land oustees were recommended to the Deputy Commissioner, Jhajjar by respondent No.3-Chief Engineer/Admn., HPGCL, Panchkula. Further, in the order dated 08.08.2023 (Annexure P-11) passed in **CWP-12836-2018** titled as ***Vikul Jakhar and others Vs. State of Haryana and others***, a specific observation was recorded by this Court that it is the 'family' that should have a holding of 02 acres or more. Since the family of the petitioner satisfied that requirement and no other member was granted employment in lieu of the same, he was eventually appointed as Peon (Field) by the respondents, in terms of the policy (Annexure P-1). When the respondents have appointed the petitioner, a reasonable inference can be drawn that he was eligible since the very first application. That being the case, there is no justification to deny him the deemed date of appointment, as has already been granted to rest of the applicants, who were considered for employment along with the petitioner.

11. Certainly, the act of acquiring of land would not automatically entitle oustees to employment as a matter of right. However, where a policy is specifically formulated to address the aspects of rehabilitation, the same must be uniformly applied. If a deviation is necessary, it must be rooted in reason, in consonance with the principles of transparency and fairness. While the officers in-charge may possess certain discretionary powers, such discretion

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cannot be considered to be entirely unqualified. The democratic nature of the State calls for adoption of a procedure, that is free from vices of arbitrariness and discrimination. A three-Judge Bench of the Hon'ble Supreme Court in ***Ramana Dayaram Shetty Vs. International Airport Authority of India, (1979) 3 SCC 489*** has categorically held that while the State can choose whether or not to engage in a relationship with an individual, the said choice must have cogent basis and should not be tainted with the vices of unreasonableness and arbitrariness in terms of Article 14 of the Constitution of India. Speaking through Justice P.N. Bhagwati, the following was held:

*“20. Now, obviously where a corporation is an instrumentality or agency of Government, it would, in the exercise of its power or discretion, be subject to the same constitutional or public law limitations as Government. **The rule inhibiting arbitrary action by Government which we have discussed above must apply equally where such corporation is dealing with the public, whether by way of giving jobs or entering into contracts or otherwise, and it cannot act arbitrarily and enter into relationship with any person it likes at its sweet will, but its action must be in conformity with some principle which meets the test of reason and relevance.***

*21. This rule also flows directly from the doctrine of equality embodied in Article 14. It is now well settled as a result of the decisions of this Court in ***E. P. Royappa v. State of Tamil Nadu, (1974) 2 SCR 348*** and ***Maneka Gandhi v. Union of India, (1978) 1 SCC 248*** that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. **It requires that State action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory : it must not be guided by any extraneous or irrelevant consideration, because that would be denial of equality. The principle of reasonableness and rationality which is legally as well as philosophically an essential element of***

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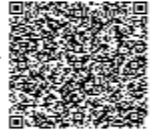


equality or non-arbitrariness is projected by Article 14 and it must characterise every State action, whether it be under authority of law or in exercise of executive power without making of law. The State cannot, therefore act arbitrarily in entering into relationship, contractual or otherwise with a third party, but its action must conform to some standard or norm which is rational and non-discriminatory. This principle was recognised and applied by a Bench of this Court presided over by Ray, C. J., in *Erusian Equipment and Chemicals Ltd. v. State of West Bengal (supra)* where the learned Chief Justice pointed out that 'the State can carry on executive function by making a law or without making a law. The exercise of such powers and functions in trade by the State is subject to Part III of the Constitution. Article 14 speaks of equality before the law and equal protection of the laws. Equality of opportunity should apply to matters of public contracts. The State has the right to trade. The State has there the duty to observe equality. An ordinary individual can choose not to deal with any person. **The Government cannot choose to exclude persons by discrimination.** The order of blacklisting has the effect of depriving a person of equality of opportunity in the matter of public contract. A person who is on the approved list is unable to enter into advantageous relations with the Government because of the order of black-listing -A citizen has a right to claim equal treatment to enter into a contract which may be proper, necessary and essential to his lawful calling - **It is true that neither the petitioner nor the respondent has any right to enter into a contract but they are entitled to equal treatment with others who offer tender or quotations for the purchase of the goods.'** It must, therefore follow as a necessary corollary from the principle of equality enshrined in Article 14 that though the State is entitled to refuse to enter into relationship with any one, yet if it does so, it cannot arbitrarily choose any person it likes for entering into such relationship and discriminate between persons similarly circumstanced, but it must act in conformity with some standard or principle which meets the test of reasonableness and non-discrimination and any departure from such standard or principle would be invalid unless it can be supported or justified on some rational and non-discriminatory ground.”

(emphasis added)

12. In view of the discussion above, the present petition is allowed.

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Accordingly, the impugned letter/memo dated 19.05.2025 (Annexure P-15) is hereby set aside and the respondent-Corporation is directed to grant the benefit of deemed date of appointment to the petitioner at par with that of his similarly situated counterparts, within a period of two months from the date of receipt of certified copy of this order.

13. The pending miscellaneous application(s), if any, shall stand disposed of.

08.12.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No