IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. \_\_\_\_\_\_\_\_\_ of 2018

Karamvir son of Sh. Naseeb Singh, Aged 28 year, Resident of VPO Khanpur Khurd, Tehsil -Matanhail, District Jhajjar (Haryana).

--Petitioner

VERSUS

1. Haryana Power Generation Corporation Limited through its Managing Director, Urja Bhawan, Sector 6, Panchkula.

2. Chief Engineer, (Administration) HPGCL, Urja Bhawan, Sector 6, Panchkula.

3. Deputy Commissioner, Jhajjar, District Jhajjar.

…Respondents

CHANDIGARH (SURESH AHLAWAT)

DATED: 01.08.2018 ADVOCATE

COUNSEL FOR THE PETITIONER

Civil Writ Petition under Articles 226/227 of the Constitution of India praying for the issuance of a writ in the nature of certiorari thereby quashing the impugned letter/ order dated 06.02.2018 (Annexure P-6) passed by the respondent no.1 whereby the claim for appointment/job under special land oustees policy of Thermal Power plant –Jharli (Jhajjar) has been rejected on hyper technical ground which is contrary to the land oustees policy dated 13.1.2014 vide Annexure P-1 as the land of the family of the petitioner was acquired of more than two acres but no appointment has been given to any member of the family of the petitioner.

Further for the issuance of a Writ in the nature of Mandamus directing the respondent no.1 and 2 to consider the claim of the petitioner for appointment/job in oustee policy according his education qualification in terms of policy decision Annexure P-1 and grant him the appointment w.e.f. the date when other similar situated persons were given appointments along with all other consequential benefits.

Any other appropriate writ, order or direction to which this Hon’ble High Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner.

**RESPECTFULLY SHOWETH:**

1. That the petitioner is a resident of State of Haryana and being citizens of India as such he is entitled to invoke the extra-ordinary writ jurisdiction of this Hon’ble Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India.
2. That State Govt. of Haryana vide Notification dated 20.11.2006 under Section 4 of the Land Acquisition Act.1894 , acquired more than 2000 acres of the agriculture land of four villages in District Jhajjar for the public purpose for setting up 3x500 MW Indira Gandhi Super Thermal Power Plant ( I.G.S.T.P.P) in village Jharli District Jhajjar and on 7.5.2007 award had been passed by the Land Acquisition Collector. At that time, Hon,ble Chief Minister Haryana had made an announcement on 7.10.2007 while addressing a meeting that one member each of the family whose land has been acquired subject to a minimum of 2 acres shall be given employment against class -III and VI as per the qualification possessed by the member of land oustees family and for this purpose respondents issued the special policy dated 13.1.2014 of that project for giving employment to the land oustees whose land have been acquired two acres or more .It is pertinent to mention here that one earlier policy dated 5.7.2007 issued by Govt. of Haryana ,Power Department regarding to provide the employment in liew of land acquired in the Tharmal Power Plant –Khedar (Hisar) was adopted in that policy. A copy of the policy dated 13.1.2014and earlier policy dated 5.7.2007 are being attached herewith as **ANNEXURE P-1 (colly).**

As such 18 kanal 13marlas (i.e more then 2 acres ) agriculture land (ancestral) of the family of the petitioner in his name and his grandmother Smt. Chhoti wd/o Late Sh. Gopi Chand has been acquired .That father of the petitioner- Sh.Naseeb s/o Gopi Chnad has already expired.

3. That the petitioner has passed 10+2 class with Diploma in Computer, his date of birth is 15.7.1990 and is eligible for the post of peon in terms of the oustees policy Annexure P-1, he applied for the said post on the ground that more than two acres of land of his family has been acquired. Photocopies of the educational certificates and application endorsed by the revenue authority that land of the family of the petitioner has been acquired more than two acre are attached herewith as **ANNEXURES P-2 (colly) AND P-3**.

4. That there was a procedure to put the case for appointment through the Deputy Commissioner of Jhajjar who was /is the chairman of land oustees committee and SDO(C),DRO DDPO were /are the members . The respondent no.3 i.e Deputy Commissioner-Jhajjar recommended only 293 cases for appointment /Govt. Job whom individual land of two acres or more has been acquired. Since the land of the petitioner’s family which is a joint khewat (khata) has been acquired of more than two acres whose application for appointment has been recommended by office of the respondent no.3 i.e Deputy Commissioner –Jhajjar along with other similar situated applicants on the basis of revenue report submitted by the SDO (Civil) Jhajjar in which the claim of the petitioner figured at Serial No.8. The Respondent no.2 on 18.6.2015 returned back application on the ground that the claim of the petitioner is over and above the list of 293 which have already been recommended by the respondent no.3 i.e Deputy Commissioner -Jhajjar in which the claim of the petitioner figured at Serial No.14. A true translated copy of the letter dated 2.6.2014 and a copy letter dated 18.6.2015 are attached herewith as **ANNEXURES P-4 and P-5.**

5. That finally the respondent no.1 on dated 06.02.2018 rejected the claim on the same ground that his name was not figured in the original list of 293 land oustees . A copy of the impugned letter dated 06.02.2018 is attached herewith as **ANNEXURE P-6.**

It is further submitted that the respondent no.2 vide letter dated 21.03.2018 directed the respondent no.3 Deputy Commissioner-Jhajjar that the application of the petitioner and other similar situated applicants which have already been written being over and above the list of 293 land oustees be not forwarded to the office as the same has already been rejected in which the claim of the petitioner figured at Serial No.2. A copy of the letter dated 21.3.2018 is attached herewith as **ANNEXURE P-7.**

6. That the impugned order Annexure P-6 is illegal, unjust, unwarranted and contrary to the policy and discriminatory, violative of Articles 14 and 16 of the Constitution of India and deserves to be set aside inter-alia on the ground mentioned here-in-below:-

a. That there is no provision in the policy Annexure P-1 for provide employment being an oustee that only those will be given whose individual land has been acquired of two acres. The object of the policy to provide the employment to the oustee whose family’s land has been acquired of two acres or more that since the petitioner family’s land has been acquired more than two acres and one member of the family is entitled for employment. No one has been given appointment to the family of the petitioner. Grandmother of the petitioner Smt. Chhoti has already been given affidavit to that regard. A true translated copy of affidavit is attached herewith as **Annexure P-8**, therefore, the impugned order is arbitrary and contrary to the policy deserves to be set aside.

b. That further the impugned order is also illegal on the ground that similar situated persons/oustees whose land of two acres individual has been acquired had already been given employment numbering 293. The petitioner and those oustees are in the identical position; they cannot be disconnected particularly when the policy of oustees is not making any deference. There is no provision in the policy to restrict the claim only to the individual. Therefore, it is also hit mandate of the Articles 14 and 16 of the Constitution of India and deserves to be set aside.

c. That further the action is also illegal that on one side the respondent no.1 is directing to respondent no.3 not to recommend the case of the petitioner category and on the other hand the respondent no.2 is giving option to submit the application for employment to the candidate who are left out of the 293 land oustees list. A copy of letter dated 17.11.2017 issued by the respondent no.2 is annexed herewith as **Annexure P-9,** thus, on this score also the impugned order/action is liable to be set aside.

D That respondent no.3 i.e Deputy Commissioner –Jhajjar has already recommended the name of the petitioner along with similar situated applicants vide Annexure P-4 after due verification by the revenue authority that land of the applicants has been acquired two acre or more in thermal power plant.

7. That the main points of law are involved in the present writ petition are as under:-

i. Whether the action of the respondent no.1 and 2 is totally illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India?

ii. Whether when there is no difference between individual and family in the outsees policy Annexure P-1 yet, the respondents no.1 and 2 themselves make classification?

iii. Whether great manifest injustice has been passed to the petitioner?

8. That the petitioner has not filed any such or similar writ petition earlier either in this Hon'ble Court or in the Hon'ble Supreme Court of India.

9. That there is no other efficacious remedy available to the petitioner except to approach this Hon'ble Court by way of filing the present writ petition. Nor any remedy of appeal or revision is available to the petitioners.

It is, therefore, respectfully prayed that for the submissions made above and to be made at the time of hearing this Hon'ble High Court may summon the record from the respondents and after perusing the same this Hon'ble High Court may be pleased to:-

i. Issue a Writ in the nature of certiorari thereby quashing the impugned letter/ order dated 06.02.2018 (Annexure P-6) passed by the respondent no.1 whereby the claim for appointment/Govt. job from oustees quota has been rejected which is contrary to the policy dated 07.10.2007 vide Annexure P-1 as the land of the family was acquired of more than two acres but no appointment has been given to any member of the family.

ii. Further for the issuance of a Writ in the nature of Mandamus directing the respondent no.1and 2 to consider the claim for appointment in oustee quota in terms of policy decision Annexure P-1 and granted him the appointment/govt.job w.e.f. the date when other similar situated persons were given.

iii. Any other appropriate writ, order or direction to which this Hon’ble High Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner.

iv. Dispense with the filing of true typed copies of Annexures and advance notices upon the respondents keeping in view the urgency of the matter.

CHANDIGARH

DATED: . .2018

THROUGH COUNSEL

(SURESH AHLAWAT )

ADVOCATE

**VERIFICATION:**

Verified that the contents of above writ petition from para no.1 to & to are true and correct to my knowledge and those of para no. is believed to be true and correct on the basis of legal advice sought from the counsel. No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED: .2018

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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TOTAL FEE RS.82.65

NOTE:

1. That the main law points involved in the writ petition are contained in para no. 7 at page no.

2. Relevant Statutes/Rules:

i. The Constitution of India.

ii. Land oustees Policy-2007/13.1.2014

1. Caveat petition filled :- No.

**3. Similar case if any:**   **CWP-7056-2018**

**Now fixed for 13.11.2018**

DEEPAK (MINOR) THRU HIS FATHER KRISHAN KUMAR

VS

HARYANA POWER GENERATION CORP LTD AND ORS.

Present: Mr. Suresh Ahlawat, Advocate, for the petitioner.

Contends, that a land measuring 17 kanals and 4 marlas, owned by the petitioner was acquired by the State Government, and in terms of the policy (Annexure P-1), the petitioner is entitled to be offered an employment. However, his claim has since been rejected, vide order dated12.12.2017 (Annexure P-8), for, his name did not figure in the list forwarded by the Deputy Commissioner, Jhajjar, who was required to verify if the landholding of the claimants was more than 2 acres, and the said list stands freezed now.

Notice of motion……

**March 21, 2018 (ARUN PALLI)**

**JUDGE**

**CHANDIGARH (SURESH AHLAWAT)**

DATED: 01.08.2018 **E.Nos. P-**

**ADVOCATE**

**COUNSEL FOR THE PETITIONER**

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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Karamvir …Petitioner

VERSUS

Haryana Power Generation Corporation Ltd & Ors ….. Respondents

TOTAL COURT FEE AFFIXED IS RS.

CHANDIGARH (SURESH AHLAWAT)

DATED: 01.08.2018 ADVOCATE

COUNSEL FOR THE PETITIONER

**LIST OF DATES & EVENTS**

That State Govt. of Haryana vide Notification dated 20.11.2006 under Section 4 of the Land Acquisition Act.1894 , acquired more than 2000 acres of the agriculture land of four villages in District Jhajjar for the public purpose for setting up 3x500 MW Indira Gandhi Super Thermal Power Plant ( I.G.S.T.P.P) in village Jharli District Jhajjar

**13.1.2014** According to policy Anne P-1 of that project, one member each of the family whose land has been acquired subject to a minimum of 2 acres shall be given employment against class -III and VI as per the qualification possessed by the member of land oustees family.

As such 18 kanal 13marlas (i.e more then 2 acres ) agriculture land (ancestral) of the family of the petitioner in his name and his grandmother Smt. Chhoti wd/o Late Sh. Gopi Chand has been acquired .

That the petitioner has passed 10+2 class with Diploma in Computer, his date of birth is 15.7.1990 and is eligible for the post of peon in terms of the oustees policy Annexure P-1, he applied for the said post on the ground that more than two acres of land of his family has been acquired.

That there was a procedure to put the case for appointment through the Deputy Commissioner of Jhajjar who was /is the chairman of land oustees committee and SDO(C) was /is the member **.6.2.2014** The respondent no.3 i.e Deputy Commissioner-Jhajjar recommended only 293 cases for appointment /Govt. Job whom individual land of two acres or more has been acquired. Since the land of the petitioner’s family which is a joint khewat (khata) has been acquired of more than two acres whose application for appointment has been recommended by respondent no.3 i.e Deputy Commissioner –Jhajjar along with other similar situated applicants on the basis of revenue report submitted by the SDO (Civil) Jhajjar in which the claim of the petitioner figured at Serial No.8. The Respondent no.2 on 18.6.2015 returned back application on the ground that the claim of the petitioner is over and above the list of 293 which have already been recommended by the respondent no.3 i.e Deputy Commissioner -Jhajjar .

**6.2.2018** That finally the respondent no.1 on dated 06.02.2018 rejected the claim on the same ground that his name was not figured in the original list of 293 land oustees .

Hence, this present petition.

**CHANDIGARH (SURESH AHLAWAT)**

**DATED: 01.08.2018 ADVOCATE**

**COUNSEL FOR THE PETITIONER**