Jai Bhagwan Sharma Off.-cum-Res.

Advocate 106 C/2, Raipur Khurd

Punjab & Haryana High Court U.T.Chandigarh Chandigarh M-9417171506

Ref. No.-------------- Dated : 23/10/2015

To

The Director

Treasuries and Accounts Department Haryana

IInd Floor 30-Bays Building

Sector- 17 C

Chandigarh

Subject: Legal representation.

Sir,

Under the instructions and on behalf of my clients namely S/Sh. Rambir Singh Assistant working in the office of T.O. Kaithal, Satish Kumar working as Clerk in the office of T.O. Karnal and Raj Rani working as Assistant in the office of T.O. Karnal, I submit the following legal representation for your kind consideration and necessary action please:

1. That the state of Haryana through Staff Service Selection Board Haryana issued advertisement for the recruitment of many posts of Clerks in the various departments of Haryana in the year 1987. My clients named above being eligible for the said posts applied well within time and qualified the written test and they were interviewed by the Board. They were finally placed in the merit list and recommended for joining as clerk in the departments of Haryana govt.
2. That while issuing the appointment letters the state of Haryana adopted pick and choose method and appointment was not made as per merit in the selection list. My clients above named were not permitted to join for the said post without giving any reason and thus the action of the state of Haryana was challenged in the Hon’ble High Court and the said issue had gone upto the Hon’ble Supreme Court of India. The Hon’ble Supreme Court of India vide judgment dt. 18.08.1998 directed the state of Haryana to fill up the available post in accordance with the merit list prepared by the Haryana Staff Selection Commission.
3. That in compliance with the directions of the Hon’ble Supreme Court my clients named above were directed to join as Clerk in the department of Treasury and Accounts Haryana and they joined as such in October 1999.
4. That the candidates who were lower in the merit from my clients were allowed to join in the year 1990 and my clients were allowed to join in the year 1999 that was also on the direction of Hon’ble Supreme Court. They have been kept lower in the seniority list from those employees who were lower in the seniority but illegally appointed and allowed to join the service in the year 1990. The Hon’ble Punjab and Haryana High Court while deciding the civil writ petition No. 7061 of 2009 titled Satyavir Singh v. State of Haryana and others decided on 24.09.2009 in which the petitioners working in the department of Treasury and Accounts and they also belong from the same select list and were allowed to join duties in the year 1999 after the judgment of the Hon’ble Supreme Court of India as mentioned above and they were giving the seniority over and above the juniors along with consequential benefits. Thus my clients are on the same footing and they also deserve for the similar benefits.
5. That recently similar controversy was raised by the candidates who were selected from the same select list and 23 civil writ petitions were filed in the Hon’ble Punjab and Haryana High Court Chandigarh and the same also have been allowed. Thus my clients named above are entitled for deemed date of appointment, seniority, notional pay fixation and other consequential benefits from the year 1990 when the candidates lower in the merit list were allowed to join in your department and my clients were denied illegally. You are therefore requested to look into the matter, consider the case of my clients sympathetically and allow them the deemed date of appointment from the year 1990, notional pay fixation from that date, refixation of seniority in accordance with the merit determined by the Haryana Staff Selection Commission and other consequential benefits in the interest of justice within a period of one month failing which I have no other option but to file the writ petition in the competent court of law for seeking the benefits mentioned above.

Thanking you

Yours sincerely

(Jai Bhagwan Sharma)

Advocate

**List of Dates and Events**

22.07.1987 That the State of Haryana issued advertisement No. 4 of 1987, inviting the applications for the recruitment for the post of Clerks in various departments. The petitioners being eligible for the same, applied for the above stated post within time and were issued Roll No. for written test.

15.10.1989 That after qualifying the written test, the petitioners were declared successful and stood in the merit list prepared on the basis of the above stated written examination and their names were recommended by the selection board for the post of Clerk.

-------- That total number of 5373 candidates were shown to be selected by the selection board and the respondent State appointed the candidates up to the merit number 4645 by adopting pick and choose method.

1990-91 That since the petitioners were not permitted to join for the above stated post without giving any reason and some of the similarly situated candidates who have been ignored being standing higher in merit even after being declared successful, preferred various litigations before this Hon’ble court and CWP No. 8187 of 1990 titled as Sudesh Kumari Vs. State of Haryana was allowed by this Hon’ble Court by directing the respondent State to fill up the posts among the candidates who are higher in merit as per the selection list dated 15.10.1989.

1994-95 That on the other hand another writ petition was filed before this Hon’ble Court, seeking the quashing of a waiting list of clerks out of the select list dated 15.10.1989 and the said matter was referred to the larger bench and the Full Bench of this Hon’ble Court, while disagreeing with the directions in Sudesh Kumari’s case and directed to issue another advertisement No. 9 of 1995 dated 19.11.1995 to fill up the available post of clerks.

------- That the above stated judgment passed by the full bench was challenged before the Hon’ble Supreme Court of India and the Full Bench judgment in Bijender Singh’s case was modified with the directions to make the appointments out of the list prepared on 15.10.1989 and same will not be annulled upto the serial no. 4645 in the selection list.

--------- That even after the directions issued by the Hon’ble Supreme Court of India, the said judgment was not complied with and the aggrieved candidates preferred contempt petitions before the Hon’ble Supreme Court of India and the Chief Secretary to Govt. of Haryana filed an affidavit stating therein that an additional affidavit was also filed by the State before the Hon’ble Supreme Court, identifying 145 vacancies as per the respective categories and total 20 number of posts are shown against BC Category.

18.09.1998 That the Hon’ble Supereme Court vide judgment dt. 18.09.1998 issued directions to the Stte of Haryana that post available from 15.10.89 to 1995 be filled up in order of merit.

01.10.1999 That the respondent authorities after finding the petitioners entitled for the appointment as per their merit number, issued the appointment letter dated 01.10.1999 alongwith other number of candidates against their respective merit number and petitioners joined service. (P-1)

23.10.2015 That the petitioners got served legal notice to respondent No. 2 for granting them deemed date of appointment , notitonal pay fixation,seniority and consequential benefits as that has been given to other appointed candidates in pursuance of the same selection process and also from the same selection list, but no action has been taken so far.

--------- Hence, the present writ petition. (P-4)

CHANDIGARH (Jai Bhagwan Sharma)

DATED: 30.11.2015 Advocate

Counsel for the petitioners.

Annexure P-1

From

Director Treasuries & Accounts

Department Haryana, Chandigarh.

To

Sh. Satish Kumar s/o Sh. Amir Chand

Near H.No. 1, 4 marla, Sonipat (Shanti Nagar)

Memo No. 12924 TA-HR (3T)-99/11756

Dated Chandigarh the 1.10.99

Sub:- Employment of temporary Clerk in the Treasuries Organization Haryana.

On the recommendation of Haryana Staff Selection Commission you are offered a temporary appointment of Clerk in the Treasury Office, Karnal at Rs. 3050- per mensum in the scale of Rs. 3050-75-3950-EB-80-1590 per month and such allowances as may be admissible from time to time.

1. It should be clearly understood that this offer of appointment is for a purely temporary post., which is liable to be abolished at any time and carries no promise of subsequent permanent employment. No offer of permanent vacancy can be made to you at present and in this respect you will have to take your chance like others who have been similarly recruited consequently your services may be terminated without notice whenever there is no vacancy against which you can be retained.
2. If at any stage you desire to resign your post in the treasuries Organisation you will be required to give one month’s clear notice or forfeit in lieu there of your salary including allowances for the month or for the period by which the notice falls short of one month. Such a notice will be given to you by Govt. also in case it is proposed to terminate your services for a reason other than that mentioned in paragraph 2 above. Govt. will also be liable to pay your salary including allowances for one month or for the period by which the notice falls short of one month or for the period by which the notice falls short. In case of misconduct however, you will be given reasonable opportunity to show cause why your services should not be terminated in which case the condition of one month’s notice will not apply.
3. You will be required to pass a type test in English in speed of 30 words per minute or a type test in Hindi at a speed of 25 words per minute after joining this department and unless you pass the said test you will not be entitled to draw your annual increment provided that:-
   1. If you pass the said test before the date on which your first increment falls due the increment will be admissible from the date of increment becomes due.
   2. If you pass the said type test the date on which your first increment falls due the increment will be admissible from the date of following the date on which the test is passed. The increment or increments shall be released with retrospective effect from that date but no arrears will be admissible for the past period.
4. It is also made clear to you that you will not under take higher studies of any kind without obtaining prior permission of appointing authority.
5. You will have to join the post at your own expenses.
6. On joining you will have to produce to the Treasury Officer the under mentioned documents:-
   * 1. Original University Certificate(s)
     2. Unless eligible for exemption you will have to qualify in Hindi Examination of Matriculation Standard.
     3. A Medical Certificate of fitness from the Civil Surgeon.
     4. Original Certificate of S.C. B.C. and Ex.-Serviceman from the competent authority.
7. You will be liable to transfer anywhere in Haryana State under the jurisdiction of Finance Department and will be governed by Haryana Treasury Establishment Subordinate Services(Class III) Rules, 1980 as amended from time to time.
8. You should furnish an oath of allegiance to the constitution of India in the form prescribed for Indian nationality.
9. In case you are married, you should have only one living spouse. If you will have to justify the have more than one spouse living your circumstances to the satisfaction of the appointing authority before joining.
10. The appointment is further subject to production of medical certificate of fitness from the chief medical officer and if you have not been found medically fit your candidature will liable to be cancelled without notice by the appointing authority.
11. If character and antecedents have not been got verified and in case subsequently any adverse fact come to the notice of the state Govt. regarding your character antecedents your services are liable to be terminated.

If the above conditions are acceptable to you please report yourself for duty to the Treasury Officer Karnal immediately but not later than 29.10.99 failing which it will be presumed that you will not join and your name will sent back to the Haryana Staff Selection Commission unless you are able to furnish a satisfactory explanation for not having joined in time.

Joint Director,

For Director, Treasuries & Accounts

Department Haryana , Chandigarh.

Endst No. 12924 TA-HR(3T)-99/ -- Dt. 01.10.99

A copy is forwarded to Treasury Officer Karnal for necessary action.

1. He will be appointed against the post of a clerk and will have to do any clerical work entrusted to him. If there is no vacancy in existence the senior most clerk recruited from the employment exchange may be retrenched, care been taken that the sanction strength of clerks in the treasury is not exceeded. In case of doubt ordered should be obtained telephonically or telegraphically. A test of typewriting should be given to official concerned after six months and his performance reported to the undersigned to take appropriate action in terms of para 4 of the conditions of appointment of the official.

Joint Director,

For Director, Treasuries & Accounts

Department Haryana , Chandigarh.

Civil Writ petition under article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant deemed date of appointment to the petitioners as that has been given to other appointed candidates in pursuance of the selection list dt.15.10.1989 by Haryana Staff Selection Commission, same selection process, and grant the benefit of seniority and notional pay fixation at par with the candidates/employees with all consequential benefits who have joined their services prior to the petitioners and being junior to the petitioners as per the merit list prepared at the time of selection pertaining to the advertisement dated 22.07.1987.

AND/OR

For issuance of any other appropriate writ, order or direction which this Hon’ble court may deem fit and proper in the peculiar facts and circumstances of the present case.

RESPECTFULLY SHOWETH:

1. That the petitioners are employees of government of Haryana, resident of Haryana, being citizen of India are entitled to invoke the extra ordinary writ jurisdiction of this Hon’ble Court under Articles 226/227 of the Constitution of India.

2. That the State of Haryana issued advertisement No. 4 of 1987 dated 22.07.1987, inviting the applications for the recruitment for the post of Clerks in various departments. The petitioners being eligible for the same, applied for the above stated post well within time and were issued roll Nos. After qualifying the written test, the petitioners were declared successful and stood in the merit list prepared on the basis of the above stated written examination and their name were recommended by the selection board for the post of Clerk.

3. That total number of 5373 candidates were shown to be selected by the selection board and the respondent State appointed the candidates up to the merit number 4645 by adopting pick and choose method as recommended by the selection board. It is necessary to mention here that the said merit list was prepared for the candidates of all the categories.

4. That since the petitioner were not permitted to join for the above stated post without giving any reason and some of the similarly situated candidates who have been ignored being standing higher in merit even after being declared successful, preferred various litigations before this Hon’ble court and CWP No. 8187 of 1990 titled as Sudesh Kumari Vs. State of Haryana was allowed by this Hon’ble Court with the directions reproduced as under:-

“6. By directing the board at this stage to recommend the names of the petitioner and other similarly situated person who are higher in merit and whose names have been received back from the departments as they could not be appointed, would at this juncture disturb the persons who have already been appointed in the other departments, who are lower in merit. We would not like to disturb such person who have been appointed in the other departments who are lower in merit. Under these circumstances, we direct that from now onwards whenever a requisition is received from any department for filling the posts of clerks, all persons who are higher in merit as compared to the last person who might have been appointed, the selection list prepared on 15th October, 1989 would not lapse irrespective of any circumstances to the contrary issued by the Sate of Haryana, if any.”

As per above directions the respondent State was also directed to fill up the posts among the candidates who are higher in merit as per the selection list dated 15.10.1989.

5. That on the other hand another writ petition was filed before this Hon’ble Court, seeking the quashing of a waiting list of clerks out of the select list dated 15.10.1989 and the said matter was referred to the larger bench and the Full Bench of this Hon’ble Court, while disagreeing with the directions in Sudesh Kumari’s case as reproduced above issued the following directions:-

“19. Having considered the matter and keeping in view the peculiar facts of this case, we hold that

i) The selection board cannot make the selection in excess of the number of posts for which the requisition has been placed before it. The waiting list prepared by the board has to be confined to the number prescribed by the Government.

ii) The selected candidates do not have any indefeasible right to be appointed to the post for which they have been selected.

iii) The directions given by the bench in Sudesh Kumari’s case particularly to the effect that the selection list prepared on October, 1989 would not lapse are not conformity with law.

iv) The respondent-State of Haryana would examine the cases of persons. Who were appointed even though they had not attained the requisite percentage of marks for inclusion in the merit list and were not within the number of posts for which the requisition had been sent to the board. It would pass orders in accordance with law.

v) The list prepared by the board on October 15, 1989 was valid for a period of one year. If, a candidate whose name appeared up to serial No. 662 has not been appointed so far, the State shall consider the claim and appoint him. All vacancies arising from October 15,1990 onwards shall be re-advertised and recruitment against those vacancies shall be made from amongst the selected candidates.”

In view of the directions the selection board did not recommend any name out of the selection list dated 15.10.1989 and the respondent State issued another advertisement No. 9 of 1995 dated 19.11.1995 to fill up the available post of clerks.

6. That the above stated judgment passed by the Full Bench was challenged before the Hon’ble Supremem Court of India and the Full Bench judgment in Bijender Singh’s case was modified with the following directions:-

“we issue the following directions in substitution of the directions made by the High Court in the impugned judgment.

i) The appointments already made from out of the list prepared on 15.10.1989 will not be annulled.

ii) The last person who is stated to have been appointed being at serial No. 4645 persons occupying higher position than him could be considered for appointment to the post of clerk if there exists any vacancy for them.

iii) The vacancy in this context would mean the vacancies which are available in the State of Haryana prior to the advertisement issued for selecting persons for the said post for the year 1995. It is to be made clear that if no vacancies exists on the aforesaid date, then no further appointment would be made from out of list prepared on 15.09.1989 notwithstanding the directions of the Punjab and Haryana High Court in Sudesh Kumari’s case.

iv) If vacancies did exist on the date as aforementioned, then the appointment from out of the list prepared on 15.10.1989 could be made strictly on the basis of their merit position of the list.

v) We strongly deprecate the practice of selecting and preparing and unusually large list compared to the vacancy position and the State Government should either amend the recruitment rules in that respect and till then should issue a positive administrative instructions giving the right to the selection board to select only some persons in excess than the requisition for which the board is going to select people.

vi) We also do not approve of the inaction on the part of the State Government in not assailing the judgment of the Punjab and Haryana High Court in Sudesh Kumari’s case and now coming up before making submissions that the judgment is practically incapable of being implemented.”

Even after the directions issued by the Hon’ble Supreme Court of India, the said judgment was not complied with and the aggrieved candidates preferred contempt petitions before the Hon’ble Supreme Court of India and the Chief Secretary to Govt. of Haryana filed an affidavit stating therein that as many as 145 vacancies pertaining to the period between 15.10.1989 to 18.11.1995 were ascertained. There vacancies were intimated to the board and it was further stated in the said affidavit that 92 candidates were recommended for appointment as clerks in various departments against the select list dated 15.10.1989 in accordance with the merit in the respective categories. It is further submitted that an additional affidavit was also filed by the state before the Hon’ble Supreme Court, identifying the 145 vacancies as per the respective categories and total 20 number of posts are shown against BC category.

7. That in pursuance of the direction issued by the Hon’ble Supreme Court in its judgment dt. 18.09.1998 the petitioners were higher in merit and were not appointed earlier, were offered appointments in the respondent Treasury & Accounts Department Haryana in the month of September,1999 and they joined the services in the month of Oct.,1999. Copy of appointment letter is attached as annexure P- 1. .

8. That the seniority list circulated by the respondent vide letter dt. 15.03.2007 wherein petitioners have been shown at sr. no. 381,375 and 376 respectively whereas the candidates who were lower in the merit and were appointed in the year 1990 from the same select list have been shown higher in the seniority list.

9. That it is relevant to mention here that the similar controversy was raised by Sh. Satyavir Singh Clerk who was appointed from the same select list alongwith the petitioners in the year 1999 and he filed the CWP No. 7061/2009 titled Satyavir Singh Vs. State of Haryana and others and the same was decided on 24.09.2009 with the direction to the respondents to re-fix the seniority of the petitioner in terms of rule 12 of the rules as has been laid down in the division bench judgment of this court within a period of six months and consequential benefits would follow. Copy of the judgment dt. 24.09.2009 is attached as annexure P- 2.

10. That it is also pertinent to mention here that the CWP No. 7703 of 2009 titled Bir Singh and others Vs. State of Haryana and others filed by the candidates who were selected from the same select list and raised the similar controversy for grant them benefit of notional fixation of pay at par with juniors. The said writ petition was allowed by this Hon’ble High Court vide dt. 07.09.2011 with the direction for grant of notional fixation of pay. Copy of the judgment dt. 07.09.2011 is attached as annexure P- 3.

11. That from the above details it is clear that the present writ petition is covered by the judgment passed by this Hon’ble High Court and the petitioners are entitled for grant of seniority from the year 1990 when the candidates from the same select list were allowed to join and petitioners were ignored though they were higher in the merit list.

12. That the petitioners have made several representations to the higher authorities but there request has not been considered. Feeling aggrieved they served upon the respondent no. 2 legal representation through registered post dt. 23.10.2015 with the request to allow them the deemed date of appointment from the year 1990, notional pay fixation from that date, and re-fixation of seniority in accordance with the merit determined by the Haryana Staff Selection Commission and other consequential benefits, but no action has been taken so far. Copy of legal representation is attached as annexure P-4

13. That it is necessary to mention here that the service condition of the clerks are governed by statutory rules called the, Haryana Treasury Establishment Subordinate Group-C Rules 1980 ( hereinafter called service Rules). The relevant Rule 12 which deals with seniority is reproduced below:-

“12. Seniority- Seniority inter-se of members of the service shall be determined by the length of continuous service on any post in the service.

Provided that in the case of different cadres in the service the seniority shall be determined separately for each cadre.

Provided further that in the case of members appointed by direct recruitment, the order of merit determined by the board or any other recruiting authority as the case may be, shall not be disturbed in fixing the seniority.

xxxxxxxxxxxx

From the above contents of the rules 12 it is clear the seniority of the petitioners should have been fixed as per the merit determined by the Haryana Staff Selection Board in the year 1989 but the seniority of the petitioners has been fixed from the date of joining which is in violation of statutory rules, unjust, unfair, illegal, arbitrary, discriminatory and against the law of natural justice.

14. That since the appointment of the petitioner was made against their merit number in the selection list dated 15.10.1989 in eventuality, the petitioners cannot be denied for the benefit of deemed date appointment and other service benefits i.e seniority, pay fixation from the date other candidates from the same select list joined in the year 1989-1990, as the candidates junior to the petitioner as per the merit determined by Board.

15. That it is further necessary to mention here that in another case this Hon’ble court were pleased to issue the direction for appointment to the petitioner on the post of Assistant Sub-Inspector subject to suitability in accordance with the rule, further directing the respondents to grant deemed date of appointment to the petitioner as that has been given to other appointed candidates in pursuance of the same selection process, but the petitioner will not be entitled for arrears of salary. However, such deemed date of appointment shall be taken into consideration for seniority and other consequential benefits etc.

16. That it is settled proposition of law that once the appointment is made strictly in the merit basis, an employee cannot be discriminated only on the ground that he could not be issued appointment letter either due to discrimination by adopting pick and choose method or due to the pendency of the litigations in that regard and on the other hand in that situation a condition which was not applicable over the candidates who have been selected in the same selection list, cannot be made applicable over the present petition even in the compelling circumstances specially when the petitioner has been issued the appointment letter after a long span of more than 10 years.

17. That as per above facts and circumstances and observations even in various judgment by the Hon’ble Courts, not granting deemed date of appointment to the petitioners as that has been given to other appointed candidates in pursuance of the same selection process, and not granting the benefit of notional seniority, consequential benefits, and pay fixation at par with the candidates/employees who have joined their services prior to the petitioners and being junior to the petitioners, petitioners are suffering recurring loss day-to-day, is unjust, unfair, illegal, arbitrary and discriminatory being violative of the article 14 and 16 of the Constitution of India and hence is liable to be set aside inter alia on the following grounds:-

i) That the petitioners were issued the appointment letter against the vacant post, being the selected candidates against their merit number hence they cannot be denied for the benefits which are admissible to the other similarly situated candidates among the same selection list/merit list and the discrimination committed with the petitioner is liable to be set aside.

ii) That as per the judgments passed by this Hon’ble court as well as by the Hon’ble apex court, the petitioners have been issued appointment letter and permitted to join against vacant post which has been admitted by the chief secretary to the government of Haryana in his/her affidavit filed before the Hon’ble court giving the details of vacant posts as per their respective categories. As such the petitioner cannot be denied for the benefits which is admits which is admissible to the other similarly situated candidates/employees who have been selected in the same merit list.

1. That it is settled law that in none of the circumstances the petitioner can be denied for the notional pay fixation at par with the similarly situated employees and who have been permitted to join at the time of declaration of selection and seniority as well as has already been decided by various judgments, passed by this Hon’ble Court as well as by the Hon’ble Apex Court.
2. That the respondent authorities are bound by the rule 12 of The Statutory Rules which says that he has to abide by such rules and regulations as may be issued by the Haryana Govt. governing the conditions of service of its employees from time to time.
3. That as per the judgments passed by this Hon’ble Courts, the petitioner cannot be denied for the benefits of seniority, notional pay fixation and other consequential benefits as the similar benefits have already been granted to the other similarly situated employees who have been appointed among the same merit list.
4. That petitioners are suffering recurring loss day-to-day and thus cause of action arises daily.

18. That the following main law points are involved in the present writ petition, which are as under:-

i) Whether the action of respondents is unjust, unfair and illegal, arbitrary and discriminatory being violative article 14 and 16 of the Constitution of India?

ii) Whether the action of respondents is itself violative of the Haryana Govt., Service Rules, ?

iii) Whether the petitioners are entitled for deemed date of appointment, seniority as per determined by Haryana staff selection commission, notational pay fixation and all consequential benefits?

iv) Whether the case of present petitioner is not covered with the rules/policies/schemes issued by the government of Haryana from time to time?

v) Whether grave and manifest justice has been caused to the petitioners?

19. That the petitioner has not filed any such or similar writ petition in this Hon’ble Court or in the Hon’ble Supreme Court of India.

20. That there is no remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the petition under Articles 226/227 of the Constitution of India.

It is therefore, respectfully prayed that:

i) to issue a writ of mandamus directing the respondents to grant deemed date of appointment to the petitioners as that has been given to other appointed candidates in pursuance of the selection list dt.15.10.1989 by Haryana Staff Selection Commission, same selection process, and grant the benefit of seniority and notional pay fixation at par with the candidates/employees with all consequential benefits who have joined their services prior to the petitioners and being junior to the petitioners as per the merit list prepared at the time of selection pertaining to the advertisement dated 22.07.1987.

ii) For issuance of any other appropriate writ, order or direction which this Hon’ble court may deem fit and proper in the peculiar facts and circumstances of the present case.

1. Record of the case may be called for;
2. filing of the certified copies of the annexures as well as filing of true typed copies of annexures, may kindly be dispensed with;
3. Cost of the petition be awarded to the petitioners.

Chandigarh: Petitioners

Dated: 30.11.2015 (Jai Bhagwan Sharma)

Advocate

Counsel for petitioners

Verification:

Verified that the contents of para No. 1 to 17 and 19& 20 are true and correct to my knowledge and that of para No. 18 are based on legal advice believed to be true. No part of it is false and nothing material has been kept concealed there from.

Chandigarh: Petitioners

Dated: 30.11.2015

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

**CHANDIGARH**

CWP No.---------0f 2015

1. Satish Kumar son of Sh. Amir Chand R/o H.N. 868/13 New Braham Colony Sonipat Distt. Sonipat, presently working as Clerk in the office of Treasury Officer Karnal distt. Karnal (Haryana).
2. Rambir Singh son of Sh. Mansu Ram R/o VPO Rahara Tehsil Assandh Distt. Karnal, presently working as Assistant in the office of Treasury Officer Kaithal.
3. Smt. RajRani w/o Sh. Satpal R/o H.N. 300/13 Ext. U.E. Karnal (Haryana) presently working as Assistant in the office of Treasury Offcer Karnal.

……….Petitioners

VERSUS

1. State of Haryana through Additional Chief Secretary Finance Department Haryana Civil Sectreate at Chandigarh.
2. The Director Treasuries & Accounts Department Haryana, second floor 30 Bays Building, Sector 17-C Chandigarh.

………Respondents.

Chandigarh ( Jai Bhagwan Sharma)

Dt. 30.11.2015 Advocate

Counsel for Petitioners.

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

**CHANDIGARH**

CWP No.---------0f 2015

Satish Kumar and others ……Petitioners

Versus

State of Haryana and others …….Respondents

Affidavit of Satish Kumar S/o Sh. Amir Chand R/o H.No. 868/13 New Barham Colony Sonepat Distt. Sonepat, presently working as Clerk in the office of Treasury Officer Karnal, Distt. Karnal.

I, the above named deponent do hereby solemnly affirm and declare as under:

1. That the deponent is one of the petitioners who are filling the present writ petition and fully conversant with the facts of the present case.

2. That the contents of the writ petition has been read over to the deponent which are true and correct to the knowledge of the deponent. No part of it is false and nothing has been concealed therein.

3. That no such or similar petition has been filed either before this Hon’ble Court or before Hon’ble Supreme Court of India on the same cause of action.

Chandigarh DEPONENT

Date: 30.11.2015

**VERIFICATION**

Verified that the contents of para no. 1 to 3 of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

Chandigarh DEPONENT

Date: 30.11.2015

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

**CHANDIGARH**

CWP No.--------- of 2015

Satish Kumar and others ……Petitioners

Versus

State of Haryana and others …….Respondents

**Index**

Sr. No. Particular Date Page

1. List of Dates & events 30.11.2015 1-3

2. Memo of parties 30.11.2015 4

3. Civil writ petition 30.11.2015 5-17

4. Affidavit 30.11.2015 18

5. Annexure P-1

(Appointment letter) 01.10.1999 19-22

6. Annexure P-2 (H.C. Order) 24.09.2009 23-26

7. Annexure P-3 (H.C. Order) 07.09.2011 27-28

8. Annexure P-4

(Legal representation) 23.10.2015 29-31

9. Power of attorney 28.11.2015 32

------------------------------------------------------------------------------------

**Note :**

1. Whether caveat received **:** No
2. That main law points are involved in present writ petition in para No. 18, page 16 of the petition.
3. Relevant Status/Rules : Constitution of India.
4. Any other case if any : **CWP NO.19451** of 2014 titled Devender Kumar v/s State of Haryana and others **NOM** issued

fixed for **22.03.2016**

Chandigarh (Jai Bhagwan Sharma)

Date : 30.11.2015 (Advocate)

Counsel for petitioners

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

**CHANDIGARH**

CWP No.---------0f 2016

Virender Singh ……Petitioner

Versus

State of Haryana and others …….Respondents

Total Amount of Court Fee Affixed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chandigarh (SURESH AHLAWAT)

Dated: 7.2016 Advocate

Counsel for the Petitioner

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2017

Gopi Ram s/o Sh. Jai Karan ( Retd.Science Master ) aged 51 years through his wife being guardian /representative Smt. Meena Devi w/o Sh. Gopi Ram aged 49 years resident of Village & P.O. Garhwali Block, Julana Distt. Jind

**…………….. Petitioner**

VERSUS

1. State of Haryana through the Principal Secretary to Government, Haryana, School Education Department, New Secretariat Haryana, Sector 17 Chandigarh.

2. Director-General, Elementary Education Haryana, Shiksha Sadan, Sector 5, Panchkula.

3. District Elementary Education Officer, Jind.

4. Sub Divisional Educational Officer (Elementary) , Julana, Jind.

5. Accountant –General ( A&E) Haryana Sector -33-B, Chandigarh  **…………. Respondents**

PLACE: CHANDIGARH SURESH AHLAWAT

ADVOCATE

DATED. .3.2017 COUNSEL FOR PETITIONER

CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India for issuance of Writ, in the nature of Certiorari for quashing the impugned order dated 14.6.2004 (Annexure P-3) passed by the respondent no.4 , vide which petitioner , who was working as Science master in the education department ,Haryana has been relieved/retired w.e.f 9.6.2004 from Government Service on the basis of medical report, in utter violation of Section 47 of the Persons with Disabilities Act-1995 and further a writ in the nature of Mandamus be issued to grant him all consequential service benefits with interest, considering the petitioner on Government duty till he attains the superannuation age i.e 31.5.2024 for all purposes and intents w.e.f. 9.6.2004 (relieving date ) in the light of the provision of Section 47 of The Persons with Disabilities Equal Opportunities Protection of Rights and Full Participation Act-1995

***RESPECTFULLY SHOWETH***

1. **That** the petitioner is a resident of District Jind (Haryana) and as such being a citizen of India, he is fully competent to invoke the extraordinary writ jurisdiction of this Hon’ble Court under Articles 226/227 of the Constitution of India by way of the present writ petition since the petitioner is 100% mentally disabled (insane). So, he is not fit to pursue this matter on account of the “**DEMENTIA”** according to “**HEAD INJURY”, therefore**,

petitioner Sh. Gopi Ram is filing this present writ petition through his wife Smt. Meen Devi being guardian /representative and his wife already appointed as Guardian by Ld. Civil Court ,Jind . Copy of order dated 11.4.2008 passed by the Ld. Civil Court Jind to this effect is attached as **Annexure P-1.**

1. **That** on 16.12.1988 petitioner was appointed as Science Master on ad-hoc basis , in the Department of Education Haryana, and joined in Govt. High School Buwana Block –Julana Distt. Jind , further his services were regularized on 1.1.1991 according to the regularization policy of the State Govt. .
2. **That**  it is pertinent to mention here ,that in pursuance of the Civil Service Rules applicable in Haryana, petitioner was medically examined by the competent authority to ascertain that as to whether the petitioner is fit to be appointed on the post of Science Master .The concerned medical authority after medically examining the petitioner declared him, fit to be appointed on the post of Science Master in Education Department ,Haryana.

**4. That** on 17.10.2002 when he was returning home after attending his duties in the school unfortunately, he met with a fatal road accident and due to head injury he remained in COMA for many months and remained under treatment. The petitioner ,according to Medical Report dated 9.6.2004 submitted by the Special Medical Board of PGMIS, Rohtak has been found to be completing and permanently incapacitated (100%) for further service in the department as Science Master on account of the **DEMENTIA** according to“**HEAD INJURY** “suffering by him which has been defined as ‘Disability’ under Section 2(t) of the “The persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation) Act,1995 .” and the same read as under :

**2. Definitions. In this Act , unless the context otherwise requires-**

**a) to (s) xxxxxxx**

**(t) “person with disability” means a person suffering from not less then forty percent of any disability as certified by a medical authority’**

It is submitted that now the petitioner is in position of insane due to “DEMENTIA “ being 100 percent permanent disabled .It is pertinent to add here that even according to the report of Medical Board dated 9.6.2004 , aforesaid incapacity does not appear to have been caused by irregular or intemperate habits on his part. A copy the Medical Report of Medical Board of PGI dated 9.6.2004 to this effect is attached as **Annexure P-2.** It is submitted the petitioner has been exhausted all kind of leave between the period of October 2002 to June 2004.

5. **That o**n 9.6.2004 petitioner subsequently relieved/retired from Govt. service by the respondent/ department from Govt. Middle School ,Jai-jai-wanti Block-Julana(Jind) vide order no. 3.2004/726-728 dated 14.6.2004 issued by respondent no.4 i.e. S.D.E.O. Jind (which was not competent authority ) on medical ground, mentioned that Sh. Gopi Ram Science Master having been declared incapacitated for further service with the department , as per the medical certificate issued by the Special Medical Board ,PGMIS Rohtak . A copy the retiring/relieving order dated 14.6.2004 to this effect is attached as **Annexure P-3.**

**6. That** after relieving to the petitioner w.e.f 9.6.2004 accordingly , the service benefits i.e. Gratuity/DCRG of the petitioner amounting to Rs. 94,202/- has been calculated for total service of 15 Years 5 Months 21 Days i.e 16.12. 1988 to 8.6.2004 . A copy the Certificate and Report dated 11.8.2005 issued by the Accountant –General Haryana i.e. respondent no. 5 to this effect is attached as **Annexure P-4.**

**7. That**  after relieved/retired the petitioner from govt. service, respondent/ department sectioned his invalid pension under Rule 5.11 of C.S.R .Vol.II. w.e.f 9.6.2004 ( i.e from relieving date) which is being reproduced here as under:

**“5.11. An invalid pension is awarded , on his retirement from the public service , to a Government employ who by bodily or mental infirmity is permanently incapacitated for the public service, or for the particular branch of it to which he belongs.”**

But respondents /department completely ignored the statutory provision of Section 47 and Statement of objects and reasons of “The persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation) Act,1995 .”

As per the provisions of section 47 of the 1995 Act, which is reproduced below for ready reference:-

**“47. Non-discrimination in Government Employment:-**

1. **No establishment shall dispense with, or reduce in rank an employee who acquires a disability during his service;**

**Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:**

**Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.**

1. **NO PROMOTION SHALL BE DENIED TO A PERSON MERELY ON THE GROUND OF HIS DISABOLITY:**

**PROVIDED THAT THE APPROPRIATE GOVERNMENT MAY , HAVING REGARD TO THE TYPE OF WORK CARRIED ON IN ANY ESTABLISHED ,BY NOTIFICATION AND SUBJECT TO SUCH CONDITIONS, IF ANY ,AS MAY BE SPACIFIED IN SUCH NOTIFICATION EXEMPT ANY ESTABLISHMENT FROM THE PROVISIONS OF THIS SECTION.”**

**STATEMENT OF OBJECTS AND REASONS OF THE ACT**

1. TO SPELL OUT THE RESPONSIBILITY OF THE State towards the prevention of disabilities, protection of rights, provision of medical care, education, training, employment and rehabilitation of persons with disabilities;
2. To create barrier free environment for persons with disabilities;
3. To remove any discrimination against persons with disabilities in the sharing of development benefits, vis-vis non-disabled persons:
4. To counteract any situation of the abuse and the exploitation of persons with disabilities;
5. To lay down a strategies for comprehensive development of programmes and services and equalization of opportunities for persons with disabilities ; and
6. To make special provision for the integration of persons with disabilities into the social mainstream.

Accordingly , the petitioner although has been retired/relieved but he can not be deemed to have retired from service till his age of superannuation which is 8.5.2024 . he would retire w.e.f 31.5.2024 when supernumerary post for the petitioner has to be created as per the requirement of section 47 of the Act. Therefore, petitioner would be entitled to payment of salary from the date he was relieved i.e. from 9.6.2004 till date and he shall be paid salary thereafter till his retirement i.e. 31.5.2024.

**8.** **That** under The Persons with Disabilities Equal Opportunities, Protection of Rights and full participation Act, 1995, an employee who is 100% incapacitated is not to be shifting to some other posts with the same pay scale and services benefits as no establishment can dispensed with, or reduce in rank an employee who acquires a disability during his service .In this way, petitioner’s case is fully covered by the provision of Section 47 of The Persons with Disabilities Equal Opportunities, Protection of Rights and full participation Act, 1995.

**9.. That** As clear from the medical report of the Medical Board (P-2) that the petitioner is unfit for further service as Science Master but nowhere, it is declared that the petitioner is completely unfit for further service , So the respondents are bound to kept the petitioner on supernumerary post till he attains the superannuation age i.e. 31.5.2024.

**10..** **That d**ate of birth of petitioner Sh. Gopi Ram is 8.5.1966 and he will attain the superannuation age on 8.5.2024. Petitioner should have been extended the benefits flowing from the provision of the aforesaid enactment of year 1995 and treated in service by creating supernumerary post and petitioner should have been paid regularly the salary which would have otherwise been paid had he continued in service in normal course. Such a treatment has not been extended to him. Petitioner was wrongfully treated on invalid pension under rule 5.11 of C.S.R. Vol.II vide P.P.O. no. 129181-s/Hr..

**11. That** the action on the part of the respondents not to be take action as per the provision of Section 47 of the 1995 Act , is illegal, unjust, unfair, unconstitutional ,arbitrary and **liable to be set aside on the following grounds:-**

**i. THAT AS PER THE PROVISIONS OF SECTION47 OF THE PERSONS WITH DISABILITIES (EQUAL APPORTUNITIES,PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995, THE PTITIONER WAS ENTITLED TO CONTINUE UP TO THE AGE OF SUPPERNNUTION.**

So, in view of the above provisions since the petitioner has been declared unfit for the post of Science Master, then he has to be kept on a supernumerary post until he attained the age of supernumerary. So the action of the respondent to relieve the petitioner from government service is totally contrary to the Section 47 of 1995 Act .

The above provisions were made by the Parliament in its wisdom to secure the interest of all those who suffer disability during service but is matter of surprise that the benefit of such law has not yet been extended to petitioner by the respondents / department. Petitioner’s wife Smt. Meena Devi has been suffering a lot due to non payment of salary of her husband and she is suffering the burden of liability which is increasing on her head.

**ii. THAT THE CONTOVERSY INVOLVED IIN THE WRIT PETITION IS SQURELY COVERED BY THE JUDGEMENT OF THE HON’BLE SUPREME COURT IN KUNAL SINGH V/S UNION OF INDIAREPORTED IN 2003 SCC (L&S) 482.**

Similar controversy has been considered by the **Hon,ble Supreme Court in Kunal Singh,s case and held as under:-**

“….. Once it is held that the appellant has acquire disability during his service and if found not suitable for the post he was holding , he could be shifted to some other post with same pay scale and service benefits, if it was not possible to adjust him against any post , he could be kept on a supernumerary post until a suitable post was available or he attains the age of superannuation ,whichever is earlier. It appears no such efforts were made by the respondents. They have proceeded to hold that he was permanently incapacitated to continue in service without considering the effect of other provisions of Sevction47 of the Act.”

**iii. THAT SIMILAR CONTROVERSY HAS BEEN CONSIDRED BY THIS HON,BLE COURT IN PARVESH DEVI V/S STATE OF HARYANA REPORTED IN 2007(2) RSJ 16. In CWP no.5715of 2005**

Exactly similar controversy has been considered by this **Hon,ble Court in Parvesh Devi Case. The relevant observations are reproduced below for ready reference:-**

“Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995, Section 2 (t) and 47-Punjab civil Services Rules, Volume II, Rule 5.11 and 6.16-Pension- Declining of on ground that petitioner has rendered less than 10 years of qualifying service- Petitioner appointed as Sanskrit Teacher on 18.12.1972 in recognized aided school taken over by government w.e.f 1.9.1994 - Petitioner could work under Government up to June- 2002 and he was relieved from service on 4.6.2002 - He is lying in coma being 100% incapacitated which condition has not been caused by any of his irregular or habits. Petitioner held to be a person with disability with in meaning of section 2 (y) of the Act of 1995 – In View of Section-47 of the Act, employer cannot dispense with or reduce the rank as he acquired disability during service –Order relieving the petitioner from service and order declining the request of the husband of the petitioner for grant of pension quashed – respondents directed to pay salary to the petitioner as per the rates by deemed fiction as if he is in service and has been working against a supernumerary post .– The arrears of pay be calculated from 1.7.2002 up to date of payment with interest @ 8% p.a. from the date of salary due, from 1.7.2002 till the date of payment. On the date of superannuate on 30.6.2007 respondents shall pass an order calculating pension in accordance with law.”

A Copy of this order dated 10.10.2006 to this effect is attached as **Annexure P-5.**

**iv. THAT “The Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995, IS A SPACIAL ACT , WHERE AS RULE 5.11 OF PUNJAB CIVIL SERVICE RULE IS THE GENRAL RULE . IT IS STELLED PROPOSITION OF LAW THAT SPACIAL LAW WILL PRIVAIL OVER THE GENRAL LAW .**

**V.** **THAT THE ACTION OF THE RESPODENTS NOT TO GRANT THE SALARY TO THE PETITIONER, AFTER 9.6.2004 ( Date of retiring from Service) IS ON THE FACE OF IT ILLEGAL AND CONTRARY TO THE OBJECTS AND REASONS AND PROVISIONS OF SECTION 47 OF THE DISABILITIES ACT -1995.**

**vi. THAT IT WAS THE DUTY OF THE SUPRIOR OFFICERS TO EXPLAIN TO FAMILY MEMBERS OF THE EMPLOYEE THE CORRECT LEGAL POSITION AND TO TELL THEM ABOUT HIS LEGAL RIGHT. INTEAD OF DOING THAT THEY THREW HIM OUT OF SERVICE .**

**vii. THAT RESPONDENT NO. 4 i.e SUB DIVISIONAL EDUCATION OFFICER (S.D.E.O JIND) WAS NOT COMPETENT AUTHORITY TO RETIRE / RELIEVE THE PETITIONER . THE APPOINTING AUTHORITY OF THE MASTER/MISTRESS IN EDUCATION DEPARTMENT IS DIRECTOR, SCHOOL EDUCATION (ELEMENTARY ) HARYANA.**

**12. That** in the light of such legal position, to relieve/retire the petitioner from Government service and grant him invalid pension is wholly arbitrary, illegal, improper, unjustified, unreasonable and amounts to disrespect to the authority of law, which had enacted the law, for the protecting of the suffering human beings in the service of the Government.

13 **That** family member,s of the *petitioner have been representing to the respondents to extend benefit of Section 47 of the “The* Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995”. *but nothing has been done . Finally the petitioner’s wife Smt. Meena Devi sent a legal notice through counsel vide notice dated 3.11.2016 to the respondents . The copy of this legal notice is annexed herewith as* ***Annexure P-6.***

*14.* ***That*** *it is pertinent to mention here that when petitioner Sh. Gopi Ram was receiving service pension from the State bank of Patiala .branch Julana (Jind ) later on , official of the Bank denied to make the payment of pension to Gopi Ram on the ground that he is mentally unfit, so payment of pension can not be made to him and suggested that applicant should move to the Court of competent jurisdiction for appointment of Guardian of Gopi Ram . Than petitioner’s wife filed petition no.50 of 19.7.2007 titled as “ Smt. Meena Kumari v/s General Public.” Which was allowed by the Hon.ble Court ,Jind vide order dated 11.4.2008/29.8.2008. (Annexure P-1) and appointed as Guardian of the person and property of her husband Sh. Gopi Ram.*

*15.* That , in such type of matter, there is no limitation ,laches and delay. In those circumstances, it was the duty of the superior officers to explain to the employee the correct legal position and to inform the affected person about his legal right under the provision of section 47 of the Disabilities Act-1995 instead of doing that threw him out of service. It has been so held by the **Hon,ble Supreme Court in case titled as Bhagwan Dass v/s State of Punjab (Civil Appeal no. 8 of 2008 decided on 4.1.2008) ,where in para no.12 of the judgment ,it has been held as under:-**

**“ Appellant no.1 was a Class IV employee, a Lineman. He completely lost his vision. He was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job, the source of livelihood of his family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights. Instead of doing that threw him out of service by picking up a sentence from his letter, completely out of context. The action of the concerned officers of the Board , to our mind, was deprecatable.”**

further kipping in view of natural justice the pension amount is not sufficient to meet the family requirement including medical expenses.

Therefore, in such type of matter, there is no limitation ,laches and delay, as it that there is no delay and laches is filing the present petition.

***16. That it is further submitted that*** *in such type of matter i.e pay scale, salary or pension there is no delay and laches that cause of action arises every month since it is recurring loss to the petitioner giving rise to recurring cause of action w.e.f. 9.6.2004 (annexure –P-3) when petitioner sh. Gopi Ram relieved/ retired from government service,* which was contrary to the statuary provision of section 47 of the of “*The* Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995”.

***It is further submitted that*  exactly similar controversy regarding delay and laches has been considered by this Hon,ble Court in Hari Singh v/s State of Haryana Case, CWP No.15488 of 2012. The relevant observations are reproduced below for ready reference:- (Annexure P-7)**

**“ ……..The** state of mind/depression a person undergoes when being contracted with such deadly disease is tremendous and the plight of the person is indefinable and, therefore, keeping in view the aforementioned factors, the writ petition cannot be dismissed on the ground of delay and laches and it is a statutory right of the employee to be given a suitable post as per the provisions of Section 47, ibid. Rather, it was the duty of the employer to apprise the petitioner qua his statutory legal right and since the authority has failed in its duty, the petition cannot be thrown out on the ground of delay and laches, particularly the authority being State. The drawing of pension shall not come into the way of the petitioner in seeking employment on a suitable post in view of the provisions of Section 47 of the Act as the Legislature in its wisdom drafted/came out with such provisions keeping in view the hardship being faced by such employees, who unfortunately contracted disease while in service.

In view of what has been observed above, the writ petition is allowed. The impugned order dated 1.2.2002 (Annexure P-4), being illegal and against the mandate of provisions of Section 47 of the Act, is here by quashed. The respondent-authorities are directed to offer a suitable post where the petitioner can perform his duties. The petitioner shall also been titled to all consequential benefits, if permissible in law.

It is made clear that the benefit of pension already taken by the shall be adjusted.”

**A Copy of this order dated 19.5.2015 passed by this Hon,ble Court to this effect is attached as Annexure P-7.**

**17.** That under Section 47 of “ The Persons with Disabilities ( Equal Opportunities ,Protection of Rights and Full Participation) Act,1995” the respondents being employer of petitioner were bound to retain him service and pay regular salary and other service benefits as admissible . By relieving him from service , the respondents have violated Section 47 and objects of the Disability Act-1995 as well as their own instruction dated 19 Sep.-2011, which directs them to comply with the provisions of Section 47 of “ The Persons with Disabilities ( Equal Opportunities ,Protection of Rights and Full Participation) Act,1995”

**18. That** the main law points involved in this writ petition are as under:-

1. Whether the action of the respondents is arbitrary and violative of Articles 14 and 16 of the Constitution of India?

**b)** Whether a grave and manifest injustice has been caused to the petitioner?

**c)**  Whether the action of the respondents is contrary to Section 47 of “*The* Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995”.

**19.** **That** there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Article 226 of the Constitution of India.

**20. That** the petitioner has not so far filed any such or similar writ petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents except CWP no. 1024 of 2017 titled as Meena Devi v/s State of Haryana which was withdrawn from this Hon’ble Court to file fresh one with better particulars.

**PRAYER**

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue: -

1. a Writ, in the nature of Certiorari for quashing the impugned order dated 14.6.2004 (Annexure P-3) passed by the respondent no.4 , vide which the petitioner ,who was working as Science master in the education department ,Haryana has been relieved/retired w.e.f 9.6.2004 from Government Service on the basis of medical report ,in utter violation of Section 47 of The Persons with Disabilities Act-1995 and further a writ in the nature of Mandamus be issued to grant him all consequential service benefits with interest, considering the petitioner on Government duty till he attains the superannuation age i.e 31.5.2024 for all purposes and intents w.e.f. 9.6.2004 (relieving date ) in the light of the provision of Section 47 of The Persons with Disabilities ( Equal Opportunities Protection of Rights and Full Participation) Act-1995
2. And/or any other appropriate writ, order or direction be also issued which this Hon’ble Court may deem fit, just and proper in the peculiar facts and
3. circumstances of this case and to which the petitioner is found entitled in law justice and equity.
4. Filing of true typed of annexures and certified copy of Annexures be also dispensed with;
5. Costs of the present writ petition be also awarded in favour of the petitioner and against the respondents.

CHANDIGARH Through:

DATED: **(SURESH AHLAWAT)**

**ADVOCATE**

**Counsel for the petitioner.**

***VERIFICATION***

Verified that the contents of Para No. 1 to 17 and 19 and 20 of the writ petition are true and correct to my knowledge. Legal submissions made in para no. 18 is believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed therefrom.

CHANDIGARH

DATE:-

**IN THE COURT OF SANJAY KHANDUJA,GUARDIAN JUDJE, JIND**

Petition no.50 of 19.7.2007

**Date of Decision: 11.4.2008**

Smt. Meena Devi w/o Sh. Gopi Ram aged 39 years, resident of Village & P.O. Garhwali Tehsil Julana Distt. Jind …………….. Petitioner

Versus

General Public ……………… Respondent

Petition under the provision of the Guardians and Wards Act,1890.

Present: Sh. M.S.Dhull, Advocate for petitioner

Respondent: Exparte.

**Judgment:**

Petitioner has filed the present petition under the provision of the Guardians and Wards,1890 for appointment as Guardian of the person and property of her husband Gopi Ram on the averments that her husband has been declared by Pt. BD Sharma, PGIMS, Rohtak as completely and permanently incapacitated for further service in the Education Department as Science Teacher due to head injury and his incapacitated does not appear to the Board of Doctors to have been caused by irregular or intemperate habits, Special Medical Board is of the opinion that Gopi Ram is unfit for further service as Science Teacher. Mentally unfit said Gopi Ram is living in the care and custody of the petitioner and he is pensioner vide Pension PPO No. 129181-S/Hr. and pension letter no.3/G-303/2-5-06/149531-32 dated 1.8.2005 issued by the office of Accountant General (A&E) Haryana. No application was moved earlier in this regard. The pension of Gopi Ram has not been paid on account of his mental incapacity and still lying in the State Bank of India branch office Julana in his account. Hence ,this petition .

1. Notice of the petition was given to the respondent general public. It was published in Hindi News Paper “Danik Jagat Kranti” on 10.8.2007. None had appeared from the respondent- general public either in person or through any advocate and the respondent –general public was ordered to be proceeded against exparte vide order dated 12.10.2007.
2. In the course of exparte evidence , petitioner herself appeared in the witness –box as PW-1, has examined Ram Kishan as PW-2 and Jagdish Rai as PW-3.
3. I have heard Ld. Counsel for the petitioner and gone through the file carefully.
4. PW-1 Meena Kumari ,petitioner has tendered her affidavit Ex. PW-1/A and fully supporting the averments in the petition and prayed for appointing her as guardian of her mentally unfit husband Gopi Ram. She has produced copy of report issued by Special Medical Board, Pt.BD Sharma, PGIMS,Rohtak Ex. P-1 and copy of letter dated 5.8.2005 issued by the office of Accountant General (a& E) Haryana Ex.P-2.
5. Pw-2 Ram Kumar , Ex-Sarpanch and PW-3 Jagdish , Lamberdar of Village Gharwali have also tendered their affidavit Ex. PW-2/A and EX. PW-3/A, respectively and supported the petitioner and deposed that Gopi Ram is mentally unfit and living in the care AND CUSTODY OF HIS WIFE Meena Kumari.

The exparte evidence led by the petitioner has gone un-rebutted and un-challenged . From the oral as well as documentary evidence available on record , this fact has duly been established that Gopi Ram is living under the care and custody of petitioner , who is her real husband. Petitioner’s husband mentally unfit as per the report of the Special Medical Board, Pt. BD Sharma PGIMS, Rohtak Ex.P-1. Therefore, petitioner Meena Kumari , who has no adverse interest, is hereby appointed as guardian of the person and property of her husband Gopi Ram. The application stands allowed. File be consigned to the record-room.

Pronounced.

April 11,2008 (Sanjay Khanduja)

Guardian Judge,

Jind

**OFICE OF THE SUB DIVISION EDUCATION OFFICER JIND**

**No. L. 3.2004/726-728 Dated 14.6.2004**

Original is being sent to the Head Master Govt. Middle School Jaijaiwanti. It is written that Pandit B.D.Sharma PGIMS, Rohtak through letter no. PGIMS/MB/875 dated 9.6.2004 and endorsement by Civil Surgeon -Jind vide letter no. CMO(i) 04/537 dated 11.6.2004 that Gopi Ram, Science Teacher, has been declared unfit for further service than after taking complete charge , he be retired from service and documents relating to pension be also sent to this office and the employee be retired from service w.e.f. 9.6.2004.

Sd-

Sub Divisional Education Office

Jind.

Letter no. same dated same---

One copy of this ,sent for information following-

1. Concerned employee
2. EI ( total) Sd-

Sub Divisional Education Office

Jind. .14.6.2004

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2017

Gopi Ram through his wife Smt. Meena Devi------------------ Petitioner

Versus

State of Haryana and others ------------------------Respondents

Affidavit of Meena Devi w/o Sh. Gopi Ram . Science Master (Retd), Education Department Haryana , resident of Village & P.O. Garhwali Block, Julana Distt. Jind

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

1. That the deponent has gone through the contents of the accompanying petition which have been drafted by the counsel on my instructions. The contents of the same are admitted to be true and correct and be read as part and parcel of this affidavit.

2. That no such or similar petition has earlier been filed either before this Hon,ble Court or Hon,ble Supreme Court.

CHANDIGARH

DATED . 3.2017

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH Dated : 3.2017

**THE HIGH COURT OF PUNJAB AND HARYANA**

**AT CHANDIGARH**

**C.W.P. No. OF 2017**

**Gopi Ram through his wife Smt. Meena Devi ….. …. …Petitioner**

**Versus**

**State of Haryana and others. ------------ Respondents**

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sr no.** | **Particulars** | **Date** | **Page** | **Court Fee** |
| **1.** | **List of Events** | **10.12017** | **1-3** |  |
| **2.** | **Civil Writ Petition** | **10.1.2017** | **4-20** | **50.00** |
| **3**  **4.** | **Affidavit**  **Annexure P-1 order of Civil Court** | **.1 2017**  **11.4.2008** | **21**  **22-23** | **1.30** |
| **5** | **Annexure P-2 ( Copy of Medical Report)** | **9.6.2004** | **24-25** | **1.30** |
| **6** | **Annexure P-3 ( Copy of Relieving Order )** | **14.6.2004** | **26** | **.65** |
| **7** | **Annexure P-4 ( Copy of Letter issued by Accountant -General** | **11.8.2005** | **27-28** | **1.30** |
| **8.** | **Annexure P-5 ( Copy of High Court order )** | **10.10.2006** | **29-37** | **5.85** |
| **9.**  **10.** | **Annexure P-6 ( Copy of Legal Notice)**  **Annexure P-7 (Copy of High Order** | **3.11.2016**  **19.5.2015** | **38-45**  **46-51** | **5.20**  **3.90** |
| **11.** | **Power of Attorney** |  | **52** | **3.00** |
| **12** | **VERNACULAR**  **ANNEXURE P-3 ( True Translation)** | **14.6.2004** | **53** |  |
|  | | |
|  |  |  |  |  |
|

**Total Court Fee Rs.**

***NOTES:-***

**1. The main law points canvassed in this writ petition are contained in para No. at page and thereof.**

**2. *Relevant Acts and Statutes* - S.47 of “*The* Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995” and Constitution of India.**

**3. Whether any Caveat/Petition has been filed in this case of not. -Nil-**

**4. *Similar Case, if any*. Controversy in the present writ petition is squarely covered by the decision of the Hon,ble Supreme Court titled as Kunal Singh v/s Union of India as reported in 2003 SCC (L&S) 482 and Bhagwan Dass Case (Civil Appeal no.8 of 2008 ) further covered by the judgment of this Hon,ble Court in 2007(2) RSJ 16 (AnnxureP-5.)**

**Facts of the cases**

**In view of the provisions of Section 47 of Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995” if any employee declared medically unfit then he is entitled to be adjusted on equal post and if equal post is not available then he has to be kept on supernumerary post till he attains the age of superannuation.**

**Similar is the controversy in the present case.**

**CHANDIGARH ( SURESH AHLAWAT )**

**DATED : .3.2017 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

**LIST OF DATS AND EVENTS**

**8.5.1966** The date of birth of the petitioner is 8.5.1966 and the petitioner will attain the superannuation age on 31.5.2024

**16.12.1988** The petitioner Sh. Gopi Ram was appointed as Science Master on ad-hoc basis , in the Department of Education Haryana, further his services were regularized on 1.1.1991.

**17.10.2002** **That** on 17.10.2002 when he was returning home after attending his duties in the school unfortunately, he met with a fatal road accident and due to head injury he remained in COMA for many months and remained under treatment. The petitioner ,according to Medical Report dated 9.6.2004 submitted by the Special Medical Board of PGMIS, Rohtak has been found to be completing and permanently incapacitated (100%) for further service in the department as Science Master on account of the **DEMENTIA** according to“**HEAD INJURY** “

**9.6.2004** The petitioner relieved from government service and granted invalid pension under Civil Service Rule 5.11

**3.11.2016** That *petitioner have been representing to the respondents to extend benefit of Section 47 of the “The* Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995”. *but nothing has been done . Finally the petitioner’s wife Smt,. MeenaDevi sent a legal notice through counsel vide notice dated 3.11.2016 to the respondents.*

***.3.2017*** *The present writ petition is being filed on various grounds mentioned in para no.10 of the writ petition and main grounds are as under:-*

**i. THAT AS PER THE PROVISIONS OF SECTION47 OF THE PERSONS WITH DISABILITIES (EQUAL APPORTUNITIES,PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995, THE PTITIONER WAS ENTITLED TO CONTINUE UP TO THE AGE OF SUPPERNNUTION.**

**ii. THAT THE CONTOVERSY INVOLVED IIN THE WRIT PETITION IS SQURELY COVERED BY THE JUDGEMENT OF THE HON’BLE SUPREME COURT IN KUNAL SINGH V/S UNION OF INDIAREPORTED IN 2003 SCC (L&S) 482.**

**iii. THAT SIMILAR CONTROVERSY HAS BEEN CONSIDRED BY THIS HON,BLE COURT IN PARVESH DEVI V/S STATE OF HARYANA REPORTED IN 2007(2) RSJ 16. In CWP no.5715of 2005**

iv. **THAT PROVISION OF SECTION 47 OF THE “Persons with Disabilities ( Equal Opportunities, Protection of Rights and Full Participation Act, 1995, IS A SPACIAL LAW , WHERE AS RULE 5.11 OF PUNJAB CIVIL SERVICE RULE IS THE GENRAL LAW . IT IS STELLED PROPOSITION OF LAW THAT SPACIAL LAW WILL PRIVAIL OVER GENRAL LAW. .**

**V.** **THAT THE ACTION OF THE PERPODENTS NOT TO GRANT THE SALARY TO THE PETITIONER AFTER 9.6.2004 ( Date of Relieving from Service ) IS ON THE FACE OF IT ILLEGAL AND CONTRARY TO THE OBJECTS AND REASONS AND PROVISIONS OF SECTION47 OF THE 1995 ACT.**

**vi. THAT EVEN THE RESPODENTS ARE WRONGLY READING THE REPORT OF THE MEDICAL BOARD (P-2)**

**vii. THAT RESPONDENT NO. 4 I.E S.D.E.O JIND WAS NOT COMPETENT AUTHORITY TO RELIEVE THE PETITIONER’S HUSBAND. THE APPOINTING AUTHORITY OF THE MASTER/MISTRESS WAS/IS DIRECTOR, SCHOOL EDUCATION (ELEMENTARY ) HARYANA.**

CHANDIGARH ( SURESH AHLAWAT )

DATED : .3.2017 ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. OF 2017

Yogesh (minor) aged 17 year s/o Sh. Azad Singh (40 years) s/o Sh. Ram Chander , through his father and natural guardian Sh Azad Singh s/o Late Sh. Ram Chander ,resident of Village Mohanbari, Tehsil- Matanhail District- Jhajjar (Haryana)

--------------Petitioner

Versus

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

2. Chief Engineer ( Admn.) , Haryana Power Generation Corporation Ltd. Urja Bhawan Sector-6 Panchkula

…………….. Respondents

CHANDIGARH ( SURESH AHLAWAT )

DATED : .5.2017 ADVOCATE

COUNSEL FOR THE PETITIONER

CIVIL WRIT PETITION under Article 226 of the Constitution of India for the issuance of a writ in nature of Certiorari for quashing the impugned order dated 30.12.2016 **(Annexure P-7)** passed by the Respondent no.2 being contrary to the policy and facts and also contrary to the law laid down by this Hon,ble Court in CWP no. 6505 of 2013 Dharmender Singh  *Versus The State of Haryana and another”* decided on 26.11.2015 (Annexure P-10) further writ in the nature of Mandamus be issued, directing the respondents to issue assurance/appointment letter to the petitioner for the post, according his education qualification , in terms of the policy decision (Annexure –P-1) .

*RESPECTFULLY SHOWETH*

1. That the petitioner is a resident of District Jhajjar (Haryana) and as such being a citizen of India, he is fully competent to invoke the extraordinary writ jurisdiction of this Hon’ble Court under Article 226 of the Constitution of India by way of the present writ petition. Where as, petitioner is minor aged about 17 years ,now he is filling this writ petition through his father and natural guardian Sh. Azad Singh.
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 , a special policy was framed for this project and Notification dated 5/6/ July-2007 issued by the Financial Commissioner & Principal Secretary to Govt. Haryana Power Department regarding to provide the employment in lieu of land acquired in Thermal Plant Kheder (Hissar) also adopted in that policy, A copy of special policy/ CM Announcement dated 7.10.2007 and Notification dated 5th July-2007 are being attached herewith as **ANNEXURE P-1.** (Colly)

It is pertinent to mention here that 61 Kanal (more than 7 acres) agriculture land of the family of the petitioner has been acquired in the thermal plant . Copy of two notices dated 20.4.2007 (out of three notices) under section 9 of the Land Acquisition Act-1894, regarding land is to be acquired (42 kanal) issued to the family of the petitioner is being attached herewith as **Annexure P-2 (colly).**

1. That in this regard , on dated 18.3.2013 a meeting was held by the respondents /department at Chandigarh to implement the announcement of employment ( Ann.P-1) to the land oustees and directed to the Deputy Commissioner Jhajjar who was the Chairman of the Committee of the land oustees matter and SDM who was the member of the Committee , to supply the list of village wise information of persons of land oustees and their education qualification regarding to grant the employment . They were also directed to forward the list of such oustees, complete in all respect, along with all documents, after duly verifying the same to grant the employment. Such applications duly verified were to be forwarded to the duly constituted High Power committee at Panchkula. It is also mentioned in the CM Announcement that Rehabilitation & Resettlement (R&R) Policy-2010 issued by the Revenue and Disaster Management Department, Haryana and salient features of the methodology adopted in case of 2x 600 MW R.G.T.P.P.,Khedar District Hisar be also considered for providing the job to the dependent family of land oustees. Further ,it was decided that the job will be offered against Class-III and IV posts as per the qualification possessed by the member of the land oustees family .It was further decide during this meeting that the land oustees for whom the Power Company of this project i.e. Aravali Power Company Private limited (APCPL) which is joint a venture of NTPC, HPGCL has no suitable jobs , may be provided employment by Haryana Power Utilities i.e. UHBVN, DHBVN,HVPN and HPGCL.
2. That in pursuance to the policy (Ann.-P-1) , from the month of Sep/Oct. 2013-14, process of collecting the application through munadi , for the employment of the eligible candidates of the family of the land oustees was started village-wise by the revenue authorities , who prepared the list of about 212 persons of the four villages and supplied the list to the Deputy Commissioner Jhajjar . Then D.C. Jhajjar has supplied list of 212 persons of village wise information of land oustees of the four villages to the Government. So, father of the petitioner Sh. Azad Singh also submitted an application for employment in oustess quota in the name of his son Yogesh (minor) i.e. petitioner after taking consent of other members of his family.
3. That when on dated 3.3.2014 a program/function was conducted in the petitioner’s village by the respondents for distribution/issuance of employment letter to the members of land oustees family. The name of the petitioner’s family was not announced for issuing appointment latter (as per above said policy) in the above said program. Thereafter, father of the petitioner inquired from authority ,why his family name not called for job than, official of the respondents replied that yours family case, to provide the employment in lieu of land acquired is under consideration before the higher authority along with some other cases, then you will wait for some time . Then after some time, family members of the petitioner met Deputy Commissioner, Jhajjar who was/is the chairman of the land oustees committee and again submitted a representation and an application of the applicant for providing the job in lieu of land acquired and represent their case before the Deputy Commissioner, Jhajhar . A true translated copy of application endorsed by the revenue authority on dated 12.8.2014 and representation submitted by the father of the petitioner and endorsed by the Deputy Commissioner Jhajjar to DDPO dated nil are attached herewith as **Annexure P-3 and P-4** respectively.
4. That at present petitioner is minor, his age is about 17 years his date of birth is 20.4.2000 and he is studying in 10+2 class. A certificate of matriculation dated 22 May,2016 is attached herewith as **Annexure P-5 .**Whereas, according to Civil Service Rule applicable in Haryana, age of entry in Government service is 18 years but under the policy (Annexure P-1) its Para no.30 (Clause-iii) , it is clearly mentioned that such applicants would be given assurance letters who are under 18 years of age but they will be provided employment after attaining the age of 18 years but till date ,petitioner have got no assurance letter from the respondents whereas , other applicants whose land has been acquired, and who are less than 18 years of age ,have been issued assurance letter by the respondents.
5. That after waiting for some time and not receiving the response of the respondents, father of the petitioner has been repeatedly requesting the respondents to consider the candidature of his son for employment, as more than 200 similarly placed persons have been offered employment . *Finally father of the petitioner sent a legal notice through counsel vide notice dated 24.9.2016 to the respondents which is attached here with as* ***Annexure P-6,*** *ultimately respondents rejected the claim of the petitioner vide order dated 30.12.2016 stated that” claim of your client is considered by the competent authority and not found feasible for acceptance as your client’s acquired land is less than 2 acres”. A copy of impugned order dated 30.12.2016 is attached herewith as* ***Annexure P-7.***

**8.** That the impugned order dated 30.12.2016 **Annexure P-7** is illegal, unjust, unwarranted, contrary to the policy, facts and law and deserve to be set-aside inter alia on the grounds mentioned herein below:-

1. That Sh. Ram Chander grandfather of petitioner had died in the month of June-2000 who was the Karta of his family and he was owner in possession of the ancestral property including acquired land etc. before June-2000 and after his death, ancestral property including acquired land inherited by his four legal representative as coparcener in equal share i.e father of the petitioner Sh. Ajad Singh and his brother –Balwant Singh , sister- Guddi and their mother Smt. Bharpai and total land acquired of the family of the petitioner was 61 Kanals , in this way, share of 15 Kanal 5 Marla of acquired land, each member of the family was acquired in the thermal plant from the joint khewat .

A pedigree table of the family of the petitioner reads as under:-

**Ram Chander** --------- Smt. Bharpai

(now deceased) (wd/o Late Sh. Ram Chander)

**Azad Singh** **.**  Balwant Guddi

son son daughter

**Yogesh . Pt.**

(Son of Azad Singh)

It is pertinent to mention here that at the time , when the land was acquired, the land was joint (khata) in name of the ancestor members of family of the petitioner being co-sharer and after the acquisition proceeding land is still joint in the name of members of the petitioner’s family, there was one Ration Card of the petitioner’s joint family and every member of petitioner’s joint family had given their consent for considering the case of petitioner namely Yogesh, who had applied for job and it was resolved that no other family member from joint family shall apply for job and relinquish their claim in favour of petitioner. A copy of joint rashan card dated 29.5.2009 family of the petitioner and affidavit dated 11.8.2014 submitted by the father of the petitioner to the respondents regarding, no other family member from joint family shall apply for job, are annexed herewith as **Annexure P-8 and P-9** respectively.

**ii)** That Smt. Bharpai, grandmother of the petitioner has bequeathed her share in the name of her two sons viz. Ajad Singh (father of the petitioner) and Balwant Singh. It becomes evident from above that acquired share of petitioner’s father was more than 2 acres because share of the petitioner’s father in the acquired land was 15 Kanal 5 marla and her mother,s share of 15 K 5M was also acquired ,since she has transferred her ½ share to father of the petitioner so, share of petitioner’s father in acquired land comes to be 15 K 5M + ½ ( 15K 5M) = 26K 6 M ( more than 3 acres).

Therefore it is crystal clear that after getting half share of his mother, acquired land of Azad Singh i.e. petitioner’s father is more than 3 acres , whereas, as per policy, it should not be less than 2 acres . So, petitioner’s case is covered under the policy ( Annexure P-1) and therefore, the impugned order is liable to be set-aside on this score alone.

**iii)** That the Notification dated 5th July-2007 ( P-1 (colly) issued by the State Govt. which is adopted in the policy of Thermal Plant Jharli (Jhajar) directing respondents to take the following steps regarding to provide the employment in lieu of land acquired which is mentioned in Para no.(i) of that Notification. One of the step is reproduced below:-

1. **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.

In this way, petitioner’s case covered above mentioned para of that policy (Ann.P-1) because when the Notification u/s 4 of the Land Acquisition Act was issued for setting up thermal plant than family of the petitioner was stood on the date, the land was acquired.

Further this Hon,ble Court in CWP 6505 of 2013 decided on 26.11.2015 settled same controversy and held “ 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 Acre. 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…….” And Hon,ble High Court further held:-

“ Thus the ground of 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.” A copy of order dated 26.11.2015 passed by this Hon,ble Court is attached herewith as **Annexure P-10.** Where as, in the case of the petitioner, total land measuring 61 kanal i.e. 7 acres was acquired of the family of the petitioner instead of 15 kanal 5 marla which is acquired individually of the members of petitioner’s family. Therefore, the impugned order is liable to be set-aside on this score also.

9. That the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

a) Whether the case of the petitioner is squarely covered with the policy decision Annexure P-1 .

b) Whether the action of the respondents is arbitrary and discriminatory which violative of Articles 14 and 16 of the Constitution of India?

c) Whether a grave manifest injustice has been caused to the petitioner?

10. That there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Article 226 of the Constitution of India.

11. That the petitioner has not so far filed any such or similar writ petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents.

PRAYER

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue: -

1. a writ in nature of Certiorari for quashing the impugned order dated 30.12.2016 **(Annexure P-7)** passed by the Respondent no.2 being contrary to the policy and facts further writ in the nature of Mandamus be issued, directing the respondents to issue assurance/appointment letter to the petitioner for the post, according to his education qualification , in terms of the policy decision (Annexure –P-1) .

ii) Any other appropriate writ, order or direction be also issued which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case and to which the petitioner is found entitled in law justice and equity.

iii) Service of advance notices upon the respondent be dispensed with.

iv) Filing of true typed of annexures and certified copy of Annexures be also dispensed with;

CHANDIGARH Through: PETITIONER

DATED: .5.**2017 (SURESH AHLAWAT)**

**ADVOCATE**

**Counsel for the petitioners.**

*VERIFICATION*

Verified that the contents of Para No. 1 to 8 and 10 to 11 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 9 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed therefrom.

CHANDIGARH PETITIONER

DATED:- .5.2017

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2017

Yogesh (minor) through his father Azad Singh

--------------------- Petitioner

Versus

Haryana Power Generation Corporation and other -------Respondents

Affidavit of Ajad Singh s/o Late Sh. Ram Chander resident of Vill. Mohanbari Distt. Jhajjar

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

1. That the deponent has gone through the contents of the accompanying petition which have been drafted by the counsel on my instructions. The contents of the same are admitted to be true and correct and be read as part and parcel of this affidavit.

2. That no such or similar petition has earlier been filed either before this Hon,ble Court or Hon,ble Supreme Court.

CHANDIGARH

DATED . .2017

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH Dated :- .2017

**Notice regarding interesting persons whose land is to be acquired under the land Acquisition Act-1894.**

Below mentioned land is to be acquired for the public purpose of Electricity Department vide Haryana Govt. Gajjatt Notification no. 20/11/2006-5 Electricity dt. 12.4.2007. Therefore, the interested persons are being informed through this notice that in respect to their claim, they may appear in Mini Sect. Jhajar on 7.5.2007 at 10 a.m.in person or through their agent with regard to compensation or any other claim or objection . On the same day the award will be announced and compensation will be given.

**Sr. no. 628/LAC dated 20.4.2007 Vill. Mohanbari Tehsil Matanhale Distt. Jhajar.**

**This notice has been issued under section 9 of the Land Acquisition Act-18994.**

**Khawat no. Name of Owner Khasra no. Area**

**72 min** Randhir s/o Jug Lal s/o Shalnga

1/3 share and Smt. Ram Kaur wd.

And Smt. Bhatari, Guddi daughter

And Jogender s/o Kali Ram s/o Jug Lal

1/3 share **Smt. Bharpai wd. and Smt. Guddi**

**daughter and Balwant, Azad sons of Ram Chander**

son Jug Lal all for in 1/3 equal share residents of the village.

|  |
| --- |
|  |

**Distt. Revenue Officer**

**cum- Land Acquisition Collector, Jhajar**

**Notice regarding interesting persons whose land is to be acquired under the land Acquisition Act-1894.**

below mentioned land is to be acquired for the public purpose of Electricity Department vide Haryana Govt. Gajjatt Notification no. 20/11/2006-5 Electricity dt. 12.4.2007. Therefore, the interested persons are being informed through this notice that in respect to their claim they may appear in Mini Sect. Jhajar on 7.5.2007 at 10 a.m.in person or through their agent with regard to compensation or any other claim or objection . On the same day the award will be announced and compensation will be given.

**Sr. no. 629/LAC dated 20.4.2007 Vill. Mohanbari Tehsil Matanhale Distt. Jhajar.**

**This notice has been issued under section 9 of the Land Acquisition Act-18994.**

**Khawat no. Name of Owner Khasra no. Area**

**73 min**  Smt. Ram Kaur wd.

And Smt. Bhatari- Guddi

Daughter And Jogender s/o Kali Ram

s/o Jug Lal 1/3 share **Smt. Bharpai**

**wd. and Smt. Guddi daughter**

**and Balwant, Azad sons of Ram Chander**

son Jug Lal all for in 1/3 equal share

Daya Ram s/o Sh.Kurla 1/3 shere , residents of the village. .

|  |
| --- |
|  |

**Distt. Revenue Officer**

**cum- Land Acquisition Collector, Jhajar**

To

The Dy. Commissioner

Jhajjar

Subject:- Application for providing government job, in lieu of land acquired in NTPC Jharli.

SIR

I (Azad Singh) am permanent resident of village Mohanbari Tehsil Matanhale Distt. Jhajjar. My land has been acquired in 2007 for NTPC Jharli. My land near about measuring 15 Kanal 5 Marlas has been acquired for NTPC Jharli. My mother Smt. Bharpai wife of Sh. Ram Chander transferred her ½ share each to me and my brother from the 15 kanal 5 marla ,than my share in acquired land comes more than 2 acre. On dated 3.3.2014 a program/function was conducted by yours for distribution/issuance of employment letter , than no name of my family member was announced .

So, it is humble request that to provide employment to one member of my family according to Haryana Govt. policy. I obliged.

Azad Singh

Applicant

Azad Singh s/o Sh. Ram Chander resident of village Mohanbari Tehsil Matanhale Distt. Jhhajjar.

Dated-----

Place: Jhajjar

DDPO

Sd. -----

Deputy Commissioner.

AFFIDAVIT

I, Bharpai wd/o Sh Ram Chander resident of Mohanbari Tehsil Matanhale Distt. Jhajjar do hereby solemnly affirm and declare on oath as under: -

* 1. That I am permanent resident of above mentioned address after marriage.
  2. That I have the land in village Mohanbari Tehsil Matanhale Distt. Jhajjar ,total area measuring 15 kanal 5 marla which has been acquired for NTPC Jharli.
  3. That I have two legal heirs Azad and Balwant Singh s/o Sh. Ram Chander.
  4. That the amount of royalty which is being given to me by the NTPC Jharli ,the same I have transferred in the name of my above two legal hairs, who are serving me in every like manner such as bread, clothing and house etc. I have transferred the said amount in the half share each in favour of the above my two hairs.
  5. That except above land , the acquired land is more than two acre of each of my sons therefore, I and any of my family member have no objection in case of, any employment is given to my above two sons.

Deponent

Verified that above mentioned facts are true and correct.

Deponent

Government of Haryana

D-3

Rashan Card

(Only for Food Articles)

1. Area of distribution -------------- Mohanbari
2. Rashan Card No. -------------- 086820
3. Name of Head of Family-------- Ajad Singh
4. Name of Mother/Father--------- RamChander
5. Name of Wife/Husband----------
6. LPG Gas Cosumer no.--------------

7.----------------------

8. House no. -------------------- 159

Village & Post Office----------- Mohan bari

9.--------------------------

**10. No. of Family members Adults children Total**

**6 4 2 6**

-------------- with Photo----------------

Signature of Card holder Signature with seal of Distributer officer

Dated:- 29.5.2009

( To be filled up by Depot Holder)

Name of Depot------------ Authority No.------------Registration No.

Signature with seal of Depot Holder

**Particulars of members of Family**

Sr. No. Name Age relation with head of family

1 Ajad Singh 30 self

2 Bharpai 50 mother

3 Sunita 28 wife

1. Balwant 24 brother
2. Jayoti 10 daughter
3. Yogesh 6 son

Total members 6

Sd-------

Signature with Seal of Distributer Officer

29.5.2009

Application Form Bio-Data

To

D.C.

Distt. Jhajjar

Sub. Application for the post of ………….

Respected Sir,

Respectfully it is submitted that from……….

I have come to know that some posts of are laying vacant under your kind control .I offer my services for one of them, As regards

My academic qualification and other particulars the same as under –

Name ------------ Yogesh

Father/husband name ------ Sh. Azad Singh

Date of birth-------- 20.4.2000

Permanent Address Vill . Mohanbari , PO Jhansaswa kalan

Tehsil—Matanhail Distt. Jhajjar

Present Address:- ----------- same as above---------

**Education Qualification s**

Exam - Year - Board/Uni - Marks - Total - Division

Passed passing obtained marks class

9th class study going on w.e.f. Apr.-20014

If belongs to SC/ST/BC/OBC---------- OBC

Ex servicemen---------------

Postal order if any--------

Experience if any---------

Other activities

If , I be so fortunate to be appointed by the grace of your I will try my

utmost to prove worthy of your selection.

Thanking you in anticipation

Dated -------- Signature---- Yogesh

Sir

It certified that the land in the name of applicant’s father measuring **15 kanal-5 marla** has been acquired in NTPC Jharli.

Sd- (Patwari)

Sd— 12.8.2014

Tehsildar ( Jhajjar)

Affidavit

I, Azad Singh son of Sh. Ram Chander Singh resident of village Mohanbari Tehsil Matenhale Distt. Jhajjar do hereby solemnly affirm and declare on oath as under: -

1. That I am resident of above mentioned address.
2. That my land which is situated in village Mohanbari Distt. Jhajjar ,which has come in Indra Gandhi Super Thermal Power Plant .
3. That as per policy of Haryana Government, the land of farmers has come in thermal , then one member of his family is to be given employment.
4. That I am stated that I have one son and one girl.
5. That now , I am moving an application for job in thermal plant for one of my family member namely my son Yogesh.
6. That I and any other of family member have not any objection in giving the employment to my above son.
7. That apart from my above son , if any member of my family applies for employment or raises any objection , then I my self will be responsible for that .
8. That above statement I have made without any pressure and at my own wish.

DEPONENT

Verification:- verified that above mentioned paras are true according to my knowledge.

DEPONENT

Attested

THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

C.W.P. No. OF 2017

Yogesh (minor) through his father Sh Ajad Singh ….. ….Petitioner

Versus

Haryana Power Generation Corporation and other.------Respondents

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sr no.** | **Particulars** | **Date** | **Page** | **Court Fee** |
| **1.** | **List of Events** | **20.5.2017** | **1-2** |  |
| **2.** | **Civil Writ Petition** | **20.5.2017** | **3-14** | **50.00** |
| **3** | **Affidavit** | **.5. 2017** | **15** |  |
| **4.** | **Annexure P-1**  **Copy of Policy (colly)** | **7.10.2007 /**  **5.7.2007** | **16-28** |  |
| **5** | **Annexure P-2 ( Copy of Notices u/s 9 of L.A.Act-1894 (colly)** | **20.4.2007** | **29-30** |  |
| **6.** | **Annexure P-3**  **( True translated copy of Application form)** |  | **31-32** |  |
| **7.** | **Annexure P-4 (True translated copy of representation)** | **24.9.2016** | **33** |  |
| **8.** | **Annexure P-5 (Copy of Metric Certificate)** | **22.5.2016** | **34** |  |
| **9** | **Annexure P-6 ( Copy of Legal Notice )** | **24.9.2016** | **35-39** |  |
| **10** | **Annexure P-7 ( Copy of impugned order)** | **30.12.2016** | **40** |  |
| **11.** | **Annexure P-8 ( Copy of joint rashan card)** | **29.5.2009** | **41-42** |  |
| **12.** | **Annexure P-9 ( Copy of affidavit)** | **11.8.2014** | **43** |  |
| **13** | **Annexure P-10 ( Order of High Court)** | **26.11.2015** | **44-51** |  |
|  |  |  |  |  |
|  | **VAKALATNAMA** |  | **52** |  |
|  |  |  |

**14 Annexure P-2**

**( Notices u/s.9 of L.A. Act 20.4.207 53-54**

**15 Annexure P-3 (Application form ) 55**

**16 Annexure P-4 ( representation) 14.6.2014 56**

**17 Annexure P-8 (Joint rashan Card) 29.5.2009 57-58**

**18 Annexure P-9 ( Affidavit 11.8.2014 59**

***NOTES:-***

1. The main law points canvassed in this writ petition are contained in para No. at page and thereof.

2. *Relevant Acts and Statutes.* Constitution of India.

3. Whether any Caveat/Petition has been filed in this case or not. -Nil-

4. *Similar Case, if any* .**Controversy in the present writ petition is squarely covered by the decision of this Hon,ble Court titled as Dharmender Singh v/s State of Haryana in CWP no.6505 of 2013 decided on dated 26Nov. 2015.**

**Similar is the controversy in the present case.**

**CHANDIGARH ( SURESH AHLAWAT )**

**DATED : .5.2017 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

LIST OF 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 and for this purpose , a special policy was framed for this project 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 (P-1)

It is pertinent to mention here that 61 Kanal (more than 7 acres) agriculture land of the family of the petitioner has been acquired in the thermal plant .

That in pursuance to the policy (Ann.-P-1) , from the month of Sep/Oct. -2013-14 , process of collecting the application , for the employment of the eligible candidates of the family of the land oustees was started village-wise by the revenue authorities .

On 3.3.2014 a program/function was conducted in the petitioner’s village by the respondents for distribution/issuance of employment letter to the members of land oustees family. The name of the petitioner’s family was not announced for issuing appointment latter, then official of the respondents replied that your’s family case regarding providing the employment in lieu of acquired land is under consideration before the higher authority along with some other cases then you will wait some time. Then after waiting some time members of the family of the petitioner met Deputy Commissioner and represent continuously to the respondents.

*Finally the father of the petitioner sent a legal notice through counsel vide notice dated 24.9.2016 to the respondents that acquired land of petitioner’s family is more than 7 acre ultimately respondents rejected the claim of the petitioner vide order dated 30.12.2016 stated that” claim of your client is considered by the competent authority and not found feasible for acceptance as your client’s acquired land is less than 2 acres”. (P-4)*

*The present writ petition is being filed on various grounds mentioned in para no. 8 of the writ petition .*

**CHANDIGARH ( SURESH AHLAWAT )**

**DATED : .5.2017 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

IN THE HIGH COURT OF PUNJAB AND PUNJAB AT

CHANDIGARH

C.M No. of 2017

IN CWP. NO 1024 of 2017

Meena Devi ------------ Petitioner

VERSUS

State of Haryana and another ------- Respondents

Application under section 151 of CP.C. praying for placing on record amended memo of parties and affidavit explaining the delay and laches .

RESPECTFULLY SHOWETH:-

1. That the above cited writ petition is fixed before this Hon'ble Court for 1.3.2017 .
2. That on 23.1.2017 during the course of argument, it was observed by this Hon,ble Court that since the husband of the petitioner is 100% permanent disabled and is not able to pursue his case , the case should have filed in the name of husband of petitioner Sh. Gopi Ram through his legal guardian –wife instead by his wife . Hence for the correct adjudication of the case, the applicant wants the present application to amend the memo of parties accordingly. Amended memo of parties is attached herewith. It is, therefore, respectfully prayed that petitioner may kindly be permitted to amend the memo of parties and be permitted to placing on record the amended memo of parties and affidavit explaining delay and laches in the interest of justice.

CHANDIGARH

DATED:- .2017 SURESH AHLAWAT

ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2017

Meena Devi ------------------------- Petitioner

Versus

State of Haryana and others ------------------------Respondents

Affidavit of Meena Devi w/o Sh. Gopi Ram , resident of Village & P.O. Garhwali Block, Julana Distt. Jind

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

* 1. That the deponent did not file the writ petition earlier for the reason that the only writ petition can be filed by her husband alone . But now, on the advice of her relative namely Sh. Ramesh Kumar that writ petition can be filed through the deponent , hence the present petition be filed by the deponent.
  2. That in such type of matter for seeking the benefit of Section 47 of The Persons with Disabilities ( Equal Opportunities ,Protection of Rights and Full Participation) Act,1995” there is no limitation ,laches and delay, as it is the duty of the employer to implement the provision of the statuary Act , as held by the Hon,ble Supreme Court in Civil Appeal no. 8 of 2008 titles as Bhagwan Dass v/s Punjab State Electricity Board Case, decided on 4.1.2008 . The relevant para no. 12 of this judgment is reproduce below:-

“ Appellant no.1 was a Class IV employee, a Lineman. He completely lost his vision. He was not aware of any protection that the law afforded him and apparently believed that the blindless would cause him to lose his job, the source of livelihood of his family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights. Instead of doing that threw him out of service by picking up a sentence from his letter, completely out of context. The action of the concerned officers of the Board , to our mind, was deprecatable.”

* 1. That there is no delay and laches is filing the present petition.

CHANDIGARH

DATED . .2017

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH

DATE:-

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 1024 of 2017

Meena Devi --------------------- Petitioner

Versus

State of Haryana and others ------------------- Respondents

Affidavit of Meena Devi w/o Sh. Gopi Ram , resident of Village & P.O. Garhwali Block, Julana Distt. Jind

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

1. That on account of the fatal accident on 17.10.2002 the deponent’s husband became 100% disabled and he was not in a position to take reasoned decision about himself or his legal right.
2. That under Section 47 of “ The Persons with Disabilities ( Equal Opportunities ,Protection of Rights and Full Participation) Act,1995” the respondents being employer of deponent’s husband were bound to retain him service and pay regular salary and other service benefits as admissible . By relieving him from service , the respondents have violated Section 47 of the Disability Act-1995 as well as their own instruction dated 19 Sep.-2011, which directs them to comply with the provisions of Section 47 of “ The Persons with Disabilities ( Equal Opportunities ,Protection of Rights and Full Participation) Act,1995”
3. That as per the law lay down by Hon,ble Supreme Court in Bhagwan Dass case in Civil Appeal no. 8 of 2008 decided on 4.1.2008, as held, . The relevant para no. 12 of this judgment is reproduce below:-

“ Appellant no.1 was a Class IV employee, a Lineman. He completely lost his vision. He was not aware of any protection that the law afforded him and apparently believed that the blindness would cause him to lose his job, the source of livelihood of his family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights. Instead of doing that threw him out of service by picking up a sentence from his letter, completely out of context. The action of the concerned officers of the Board , to our mind, was deprecatable.”

* 1. It is duty the duty of the employer with reference “ The Persons with Disability Act “-1995 to inform the affected person about his legal right under the Act. It was therefore, duty of the respondents to inform the deponent or her husband about the right , that he is entitled to under Section 47 of the said Act and in such type of matter there is no limitation ,laches and delay, as it That there is no delay and laches is filing the present petition.

Deponent

DATED . 2 .2017

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

Deponent

DATE:- 2.2017

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

**C.W.P. No. OF 2017**

Yogesh (minor) through his father Sh Ajad Singh ….. ….Petitioner

Versus

Haryana Power Generation Corporation and other.------Respondents

COURT FEE

PLACE: CHANDIGARH SURESH AHLAWAT

DATE :- ADVOCATE

COUNSEL FOR PETITIONER

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

\*\*\*

Transfer Application NO. --------- OF 2017

Neha Verma w/o Sh. Gaurav Verma d/o Sh. Kushal Pal Singh, resident of Block Colony, Basi- Kiratpur, near Veterinary Hospital, Kiratpur, District –Bijnour (U.P. ) **…………Petitioner**

**Versus**

Gaurav Verma s/o Sh. Jitender Kumar Verma resident of House no. 295, Sonia Colony, Ambala Cantt. ( Haryana) presently serving in 40 ART.DIV. SIGNAL REGIMENT (AREN) PIN 917840 C/O 56 A.P.O. **………..…Respondent**

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : ADVOCATE

COUNSEL FOR THE PETITIONER

Petition U/s 24 of the Code of Civil procedure seeking transfer of petition U/s 13 (Case no.HMA. 767 of 2016) of the Hindu Marriage Act, filed by the respondent (Annexure P-1) from the court of District Judge , (Family Court) Ambala to the Court of competent jurisdiction at Sonipat. AND

It is further prayed that the further proceeding pending before the Ld. District Judge, (Family Court) Ambala for 25.5.2017 arising out of Petition U/s 13 of the Hindu Marriage Act (Annexure P-1 ) may kindly be stayed , during the pendency of the present revision petition .

*RESPECTFULLY SHOWETH*

1. ***That*** *the marriage of the petitioner with the respondent was solemnized in accordance with Hindu rites and ceremonies on 20.4.2008 at* Kiratpur, District –Bijnour (U.P. ) as per Hindu rites and ceremony *. The parties cohabited as husband and wife and out of this wedlock , one male child born on 4.11.2010 and now male child is residing with the petitioner.*
2. ***That*** *the respondent has filed a petition U/s 13 of the Hindu Marriage Act ( H.M.A. Case No. 767 of 2016 ) in the court of District judge, Ambala (Family Court) , copy enclosed as* ***Annexure P-1.*** *In the said petition , totally vague and baseless allegation have been made. Notice of the said petition has already been issued to the petitioner.* ***Now this case has been fixed for 22.5.2017 for appearance of the petitioner/wife.***
3. ***That*** *now the proceeding arising out of petition U/s 13 of the Hindu Marriage Act are going on before the District Judge ,Ambala (Family Court) , where as the petitioner is residing at* Kiratpur, District –Bijnour (U.P. )  *The distance between Ambala to* Kiratpur, District –Bijnour (U.P.) *is more than 350 K.M. Petitioner ,s father and mother who are old aged persons and now a days the parents of the petitioner are unable to afford the expenses of both of them because the father of the petitioner is seriously ill and undergoing treatment in AIIMS at Delhi. and younger brother of the petitioner is regular going student in the College . Petitioner having one male child Purujit Singh aged 7years only who is the school going and is student of UKG Class. In such situation , there is no male member in petitioner , s family to accompany her to the court at Ambala. Where as , petitioner ,s husband Gaurav (Respondent ) aged 30 years who is serving in Army as Signal Man in 40-Artillery Division, Signal Regiment posted at Ambala Cantt and he is getting the salary more than Rs. 45,000/- per month and respondent having his own residential house at Ambala Cantt and is residing with his parents after service duty, his father is Ex service man and retired from IAF.*
4. **That the** respondent is continuously harassing the petitioner by filing frivolous petitions one after the other, earlier on dated 19.5.2012 he filed a **first petition** u/s 9 of HMA before the Ld.Family Court Ambala but later on , he had withdrawn the same on 15.4.2014 . After **this ( Second)** in the month of December-2015 mother of the respondent filled the petition under section 12 of the Domestic Violence Act,2005 against the petitioner which was dismissed by Ld. Court at Ambala . After this, he filed the **( third petition)** divorce petition in July -2014 against the petitioner u/s 13 of HMA Act-1955 at Ambala. Then , petitioner filled the Transfer Petition no.735 of 2015 u/s 24 of the C.P.C. before this Hon,ble Court to transfer the divorce petition from Ambala to Sonipat and Hon,ble Court on dated 31.3.2016 accepted the plea of the petitioner and transferred the petition from Ambala to Sonipat but respondent appeared before the Ld. District Judge (Family Court) Sonipat and later on he had withdraw the same on dated 29th July -2016 . Copies of the order dated 31.3.2016 passed by the Hon,ble High Court as well as the order of withdrawal of the case dated 29.7.2016 passed by the District Court Sonipat are being attached herewith as **ANNEXURE P-2 and P-3** respectively.

It is pertinent to mention here that respondent filed **Fourth petition** under the Guardians and Wards Act -1890 at Ambala, than petitioner filed the transfer petition no. 45 of 2017 before this Hon,ble High Court to transfer this case Ambala to Sonipat . When notice of motion issued by Hon,ble Court to the respondent than he withdrawn the same on dated 11.2.2017 before the Family Court at Ambala . Now respondent /husband again filed the **fifth petition** i.e. divorce petition at Ambala which was earlier withdrawn at Sonipat and concealed this very facts from the Ld. Court at Ambala . In this way, respondent is continuously harassing the petitioner by filing the frivolous petitions one after other against the petitioner where as, petitioner filed only one petition unde section 125 Cr.P.C. against the respondent to grant the maintain ace for her and her child aged 6 years and she is getting total Rs 4,000/- per month the meagre amount for maintenance in this modern era of escalated price index and to live a standard and dignified life . Petitioner filed the petition ( CRR-F 280 of 2015 ) for enhancement of maintainace which is , pending before this Hon,ble Court.

1. **That** the petitioner is a poor lady and has no independent source of income and is residing at the mercy of her parents . The distance between Bijnore (U.P) to Ambala Cantt. is about 350 kilometers. It will indeed be difficult for the petitioner to travel such long distance to attend the hearings at Ambala and the expenses for travelling will also be an additional financial burden on her. It has been held by Hon,ble Supreme Court in Sumita Singh vs. Kumar Sanjay and another, AIR 2002 (SC) 396 and Neelam Kanwar vs. Devinder Singh Kanwar, 2000(8) SCC 184 (T.A. no.61 0f 2014) that convenience of the wife has to be taken into consideration in such like matters. Moreover, she has to travel from Bijnore to Ambala Cantt. and back without reservation which is very difficult now a days for a lady to travel 350 kilometres on each and every date of hearing  *and as stated above , there is apprehension of danger to the life and liberty of the petitioner at the hands of respondent’s family at Ambala.* So, the petitioner is unable to meet the uncalled litigation expenses .

***6. That*** *it is in the interest of justice that the proceeding arising out of petition Annexure P-1 be transferred to the court of competent jurisdiction at Sonipat, because permanent residence of the petitioner falls in Distt. Meerut, U.P., she belongs to village Bhainsa P.S. Mawana . Distt. Meerut (U.P.) and some families belongs to her i.e father’s brother/cousin are residing in the said village. Distance between Meerut to Sonipat is 50 k.M. and Sonipat is nearest and convenient place in Haryana to the petitioner and permanent residence village Pachanda –Klan of the respondent falls in District Muzaffer Nagar near Meerut city . (U.P) respondent Now petitioner is staying at Kiratpur Distt. Bijnore (U.P.) with her parents , her father is serving in U.P. Govt. and posted at Kirtpur but permanent resident falls in Distt. Meerut . Then, there will be no difficulty to pursue her case properly in Distt. Court at Sonipat . In case, the proceeding are allowed to continue at Ambala , the petitioner will not be able to pursue her case properly.*

***7.. That*** *as per above mentioned cases ,settled proposition of law , convenience of wife is to be seen by the court. In this case , wife –petitioner is staying at Kiratpur Distt. Bijnore (U.P.) hence the petition Annexure P-1 filed by respondent deserves to be transferred from Ambala to Sonipat which is nearest place , so as to enable the petitioner to pursue her case properly and in order to impart justice to the petitioner.*

***8. That*** *no such or similar petition has earlier been filed by the petitioner either in this Hon,ble court or the Apex Court except T.A. no 735 of 2015 nor pending before any District court on the same cause of action.*

*It is , therefore , respectfully prayed that this petition may kindly be allowed and the petition U/s 13 of the Hindu Marriage Act (Annexure P-1) filed by the respondent titled as Gaurav Verma v/s Neha Verma (* case no.HMA. 767 of 2016)  *may kindly be transferred from the Court of District Judge , (Family Court) Ambala to the court of competent jurisdiction at Sonipat. AND*

*It is further prayed that the further proceeding pending before the Ld. District Judge ,Family Court Ambala for 22.5.2017 arising out of Petition U/s 13 of the Hindu Marriage Act ( Annexure –P-1 ) may kindly be stayed , during the pendency of the present application/ petition AND/ OR*

Kindly pass any other appropriate order or direction which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case.

*Chandigarh ( SURESH AHLAWAT )*

*Date :- Advocate*

*COUNSEL FOR THE PETITIONER*

THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M No of 2017

CWP No. --------- of 2017

Jai Kishan …………Petitioner

Versus

HPGCL and Others ………..…Respondents

*TOTAL AMOUNT OF COURT FEE AFFIXED*

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : ADVOCATE

COUNSEL FOR THE Respondents

THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Transfer Application no. --------- of 2017

Neha Verma …………Petitioner

Versus

Gaurav Verma ………..…Respondent

INDEX

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr no. | Particulars | Date | Page | Court Fee |
| 1. | Transfer Application | 22.4. 2017 | 1-7 | 3.00 |
|  | | | | |
| 2. | Affidavit | .4.207 | 8 |  |
|  | | | | |
| 3 | **Annexure P-1**  Petition U/s 13 of H.M.Act |  | 9-14 |  |
|  | | | | |
| 4. | **Annexure P-2**  Order of High Court | 31.3.2016 | 15-16 | 1.30 |
| 5. | **Annexure P-3**  Order of Family Court Sonipat | 29.7.2016 | 17 | 00.65 |
| 6 | Power of Attorney |  | 18 | 3.00 |
|  | Total Court Fee |  |  |  |
|  | | | | |

Not : Caveat, if any : No.

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : ADVOCATE

COUNSEL FOR THE PETITIONER

To

The Asstt. Registrar (writ branch)

Punjab& Har. High Court, Chandigarh

Subject:- In CWP no. 28303 of 2013, place on record copy of the office order no. 384/ Finance dated 19.8.1987 ( Circular no.1 Revision of Pay- Scales) For the Pay Scales of the post of Driver and T.T. Driver.

SIR

Please find enclosed herewith the copy of Notification referred in above noted subject in compliance of the order passed this Hon,ble Court on dated 3.4.2017 in CWP no. 28303 of 2013 titles as Jai Kishan v/s HPGCL. Please place it on record for the kind perusal of the Hon,ble Court.

Yours sincerely

SURESH AHLAWAT

Advocate

Counsel for the Respondents

IN THE HIGH COURT OF PUNJAB AND PUNJAB AT

CHANDIGARH

C.M No. of 2017

IN CWP. NO 28303 of 2013

Jai Kishan ------------ Petitioner

VERSUS

Haryana Power Generation Corporation and others

------- Respondents

Application under section 151 of CP.C. praying for placing on record Copy of office order no. 384/Finance dated 19.8.1987 regarding pay scales of HSEB Employees.

RESPECTFULLY SHOWETH:-

1. That the above cited writ petition is fixed before this Hon'ble Court for 2.6.2017 .

2. That on 3.4.2017 during the course of argument, it was observed by this Hon,ble Court that there is no documents on record regarding pay scales and rules of recruitment of Driver and Tractor Trailer Driver of the Electricity Board during the intervening period from 21.11.1985 to 23.5.1990 and Hon,ble directed to respondents to place on record . Now respondents is placing on record the Copy of order no. 384/Finance dated 19.8.1987 regarding pay scales of HSEB Employees during the period from 21.11.1985 to 23.5.1990 for proper adjudication of this case .

1. It is, therefore, respectfully prayed that respondent may kindly be permitted to placing on record of above mentioned in the interest of justice.

CHANDIGARH

DATED:- .2017 SURESH AHLAWAT

ADVOCATE

COUNSEL FOR THE RESPODENTS

**FINANCE SECTION Copy of Order No. 384/Finance dated 19.8.1987 endorsed to all C.E./C.A.O,SEs,XEN. etc.**

**Circular No. 1**

**Revision of Pay-Scales.**

The Haryana State Electricity Board is pleased to revise the pay scales of various categories of employees **(Regular, Adhoc & Workcharged employees)** **w.e.f 1.1.1986** as indicated in Annexure ”A” appended to this order.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

**AANEXURE “A”**

**GROUP -1**

Revised Scale: 750-12-870-EB-14-940

Sr. Name of Post Present Scale Revised Scale

1. 2. 3. 4.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

**GROUP-V1**

Revised Pay Scale: 1200-30-1560-EB-40 -2040

**Sr. Name of Post Present Scale Revised Scale**

1. **2. 3 4**

1 to 9 xxxxxxxxxxxxx

**10. Driver (HO) 450-760+Rs.150/-SP 1200-2040+150/SP**

**SG: 525-900 0n 33/1/3%**

**Posts +Rs. 150/- SP**

**11. Driver (Field) 450-760 1200-2940+150/SP**

**SG: 525-900 0n 20% posts. For Staff Cars/Jeeps**

**Rs. 50/-S. Pay for those Drivers. (Extended benefit SP of Rs. 50/-**

**Working on Car/Jeeps to all Drivers of Road running w.e.f. 1.4.1987**

**(Extended benefit of S. Pay**

**of Rs, 50?- to all Drivers**

**including workcharged of road**

**working vehicles**

**w.e.f. 1.4.1987**

**GROUP -V111**

**Revised Scale:- 1400-40-1800-EB-50-2300**

Sr. Name of Post Present Scale Revised Scale

1 2. 3 4

**1 to 16 xxxxxxxxxxxxxxxxxxxxxxxx**

**17. Tractor Trailor Driver 570-1020 1400-2300**

**GROUP-XV111**

**xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx**

TRUE Extract Copy

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2017

Meena Devi ------------------------- Petitioner

Versus

State of Haryana and others ------------------------Respondents

Affidavit of Meena Devi w/o Sh. Gopi Ram , resident of Village & P.O. Garhwali Block, Julana Distt. Jind

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

* 1. That the deponent did not file the writ petition earlier for the reason that the only writ petition can be filed by her husband alone . But now, on the advice of her relative namely Sh. Ramesh Kumar that writ petition can be filed through the deponent , hence the present petition be filed by the deponent.
  2. That in such type of matter for seeking the benefit of Section 47 of The Persons with Disabilities ( Equal Opportunities ,Protection of Rights and Full Participation) Act,1995” there is no limitation ,laches and delay, as it is the duty of the employer to implement the provision of the statuary Act , as held by the Hon,ble Supreme Court in Civil Appeal no. 8 of 2008 titles as Bhagwan Dass v/s Punjab State Electricity Board Case, decided on 4.1.2008 . The relevant para no. 12 of this judgment is reproduce below:-

“ Appellant no.1 was a Class IV employee, a Lineman. He completely lost his vision. He was not aware of any protection that the law afforded him and apparently believed that the blindless would cause him to lose his job, the source of livelihood of his family. The enormous mental pressure under which he would have been at that time is not difficult to imagine. In those circumstances it was the duty of the superior officers to explain to him the correct legal position and to tell him about his legal rights. Instead of doing that threw him out of service by picking up a sentence from his letter, completely out of context. The action of the concerned officers of the Board , to our mind, was deprecatable.”

* 1. That there is no delay and laches is filing the present petition.

CHANDIGARH

DATED . .2017

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH

DATE:-

IN THE HIGH COURT OF PUNJAB AND PUNJAB AT

CHANDIGARH

C.M No. of 2014

IN CWP. NO 19451 of 2014

Devender Kumar and Other ------------ Petitioners

VERSUS

State of Haryana and another ------- Respondents

Application under section 151 of CP.C. praying for placing on record the fully true typed copy of Annexure P-3.

RESPECTFULLY SHOWETH:-

1. That petitioner is filing accompanying petition before this Hon'ble Court which is fixed for 4.11.2014 and is sanguine for acceptance of the same.
2. The inadvertently due to typing mistake one page is left out from typing in Annexure P-3 which is order of Hon,able High Court and I disclosed the same before this Honble Court on the last date of hearing and after hearing this case Honble Court tagged this petition for hearing along with similar case i.e. CWP no. 24271 of 2013 which was fixed for 4.11.2014.

It is, therefore, respectfully prayed that Petitioner may kindly be for placing on record the fully true typed copy of Annexure P-3 in the interest of justice.

CHANDIGARH

DATED:-27.10.2014 SURESH AHLAWAT

ADVOCATE

COUNSEL FOR THE PETITIONERS

IN THE HON’BLE HIGH COURT OF PUNJAB & HARYANA,

C.M No. of 2017

IN CWP. NO 28303 of 2013

Jai Kishan ------------ Petitioner

VERSUS

Haryana Power Generation Corporation and others

------- Respondents

I N D E X

|  |  |  |  |
| --- | --- | --- | --- |
| S.  No. | Particulars | Date | Pages |
| 1. | Application u/s 151 C.P.C for placing on record | 30.5.2017 | 1-2 |

2 True type Extract Copy of order 19.8.1987 3-4

Pay Scale

3 Full Copy of Order of pay Scale 19.8.1987 5-

4 Power of Attorney already on record

------------------------------------------------------------------------------------------

CHANDIGARH

DATED:-30.5.2017 SURESH AHLAWAT

ADVOCATE

COUNSEL FOR RESPODENTS

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

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

Karamvir …Petitioner

VERSUS

Haryana Power Generation Corporation Ltd & Ors ….. Respondents

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

I, the above named deponent do, hereby solemnly affirm and declare as under:-

1. That the deponent is filing the accompanying writ petition, the contents of which may also be treated as a part of this affidavit.

2. That the deponent is competent to file this affidavit and is well conversant with the facts and circumstances of the case. The averments made in the present writ petition are true and correct to my knowledge. No part of it is false and nothing material has been kept concealed therein.

CHANDIGARH

DATED:

### VERIFICATION: -

Verified that the contents of para no.1 & 2 of my above mentioned affidavit are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED:

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

CWP No. \_\_\_\_\_\_\_\_\_\_\_\_\_OF 2018

Karamvir ---- -------- …Petitioner

VERSUS

Haryana Power Generation Corporation Ltd & Ors ----Respondents

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr. No | Particulars | Date | Pages | Court fee |
| A | Court Fee | 1.8.2018 |  |  |
| 1. | List of Date & Events | 1.8.2018 | 1-2 |  |
| 2. | Civil Writ Petition | 1.8.2018 | 3-12 | 50.00 |
| 3. | Affidavit in Support | 1.8.2018 | 13 |  |
| 4. | **ANNEXURE P-1**  Copy of Policy (colly) | ---- | 14-26 | 16.90 |
| 5. | **ANNEXURE P-2**  Copy of certificates | ---- | 27-28 | 1.30 |
| 6. | **ANNEXURE P-3**  Copy of application with true translated report | 25.1.2018 | 29-30 | 1.30 |
| 7. | **ANNEXURE P-4**  Copy of true translated recommended letter | 2.6.2014 | 31-32 | 1.30 |
| 8. | **ANNEXURE P-5**  Copy of true translated returned letter | 18.6.2015 | 33-38 | 3.90 |
| 9. | **Annexure P-6**  Copy of Impugned Order (true translated) | **6.2.2018** | **39-40** | 1.30 |
| 10 | **Annexure P-7 (**Copy of letter) | 21.3.2018 | 41-45 | 3.25 |
| 11 | **Annexure P-8 (** Copy true translated of affidavit) | 25.1.2018 | 46 | .65 |
| 12 | **Annexure P-9** (True photo copy of letter) | 17.11.2017 | 47 | .65 |
| 13 | **Power of Attorney** |  | 48 | 2.75 |
|  | **VRNACULARS** |  |  |  |
| 14 | **ANNEXURE P-3**  Copy of application with true translated report | 25.1.2018 | 49-50 |  |
| 15 | **ANNEXURE P-4**  Copy of true translated recommended letter | 2.6.2014 | 51 |  |
| 16 | **ANNEXURE P-5**  Copy of true translated returned letter | 18.6.2015 | 52-53 |  |
| 17 | **Annexure P-6**  Copy of true translated Impugned Order | 25.1.2018 | 54 |  |
| 18 | **Annexure P-8 (** Copy of true translated of affidavit) |  | 55 |  |

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

CWP No. \_\_\_\_\_\_\_\_\_\_\_\_\_OF 2018

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**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2018

Rajesh Kumar aged 21 years s/o Manphool Singh s/o Late Sh. Nihal Singh resident of Vill. Khanpur- Khurd,Tehsil-,Dsitt.Jhajjar. --------------------- Petitioner

Versus

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

2. Chief Engineer ( Admn.) , Haryana Power Generation Corporation Ltd. Urja Bhawan Sector-6 Panchkula.

3. Deputy Commissioner, 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 dated 21.3.2018 (Annexure P-3) passed by the respondent no.2 whereby the claim for employment /job under special land oustees policy of Thermal Power plant –Jharli (Jhajjar) has been rejected on hyper technical ground i.e “application of the applicant found over and above the list of 293 land oustees supplied by the Deputy Commissioner –Jhajjar” 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 employment 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 employment/job in oustee policy according his education qualification in terms of policy decision Annexure P-1 and grant him the employment 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 lieu of land acquired in the Thermal Power Plant –Khedar (Hisar) was adopted in that policy. A copy of the policy dated 13.1.2014 and earlier policy dated 5.7.2007 are being attached herewith as **ANNEXURE P-1 (colly).**

As such 18 kanal 12 marlas (i.e more then 2 acres ) agriculture land of the family of the petitioner in the name of father of the petitioner Sh. Manphool s/o Sh. Nihala and his uncle Sh. Madan s/o Sh. Nihala has been acquired .

3. That the petitioner has passed 10+2 class, his date of birth is 24.6.1997 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 certificate and true translated copy 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)**

4. That there was a procedure to put the case for employment through the Deputy Commissioner of Jhajjar who was /is the chairman of land oustees committee and SDO(C) DDPO were /are the members . The respondent no.3 i.e Deputy Commissioner-Jhajjar recommended only 293 cases for employment /Govt. Job whom individual land of two acres or more has been acquired. Since the land of the petitioner’s family which was a joint khewat (khata) has been acquired more than two acres whose application for employment has been recommended by the respondent no.3 i.e Deputy Commissioner –Jhajjar to the respondent no.1 along with other similar situated applicants after due verification of the revenue authority. But respondent no.2 vide letter dated 21.3.2018 returned back application of the petitioner and 14 others similar situated applicants to the respondent no. 3 i.e Deputy Commissioner –Jhajjar on the ground that the claim of the petitioner and similar situated applicants is over and above the list of 293 land oustees received from your office which have already been recommended for employment . Claim of the petitioner figured at Serial No.5 in the said letter. A true translated copy of the impugned letter dated 21.3.2018 is attached herewith as **ANNEXURES P-3.**

It is pertinent to mention here that respondent no.3 i.e Deputy Commissioner –Jhajjar has already supplied the 2-3 lists of land oustees vide letter dated 2.6.2014 to the respondent no.2 regarding giving the employment to the land oustees of power plant Jhajjar but respondent no2 returned back the said lists of 23 applicants to the Deputy Commissioner vide letter dated 18.6.2015 on the ground these applications are over and above the list of 293 land oustees received from your office. True copies of letter dated 2.6.2014 and letter dated 18.6.2015 are attached herewith as **Annexure P-4 and 5 .**

5. That finally the respondent no.1 vide letter dated 21.3.2018 Annexure P-4 rejected the claim on the same ground that his name was not figured in the original list of 293 land oustees.

It is further submitted that the respondent no.2 vide letter dated 21.03.2018 (P-4) 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 .

6. That the impugned letter /order dated 21.3.2018 Annexure P-4 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 oustees 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 employment to the family of the petitioner. Father of the petitioner Sh. Manphool and his uncle Sh. Madan have already been given affidavits to that regard . True translated copy of affidavits are attached herewith as **Annexure P-6 (colly)**, 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 true copy of letter dated 17.11.2017 issued by the respondent no.2 is annexed herewith as **Annexure P-7,** 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-3 after due verification by the revenue authority that land of the applicants has been acquired two acre or more in thermal power plant.

**E**  That Sh. Nihala grandfather of petitioner had died who was the Karta of his family and he was owner in possession of the property including acquired land and after his death, property including acquired land inherited by his two legal representative as coparcener i.e father of the petitioner Sh. Manphool Singh and his brother Madan and total land acquired of the family of the petitioner was 18 Kanals 12 marlas and in the acquired land share of father of the petitioner was 15 kanal 13 Marla and share of his brother Sh.Madan was 2 kanal 19 marla , total land acquired of the family of the petitioner 18 kanal 12 marla ( more than two acre) in the thermal plant from the joint khewat.

It is pertinent to mention here that at the time , when the land was acquired, the land was joint (khata) in name of the members of family of the petitioner being co-sharer and every member of petitioner’s joint family had given their consent for considering the case of petitioner, who had applied for job and it was resolved that no other family member from joint family shall apply for job and relinquish their claim in favour of petitioner and affidavit submitted by the father of the petitioner and his uncle to the respondents regarding, no other family member from joint family shall apply for job. Therefore it is crystal clear that petitioner’s case is covered under the policy. ( Annexure P-1)

**F**  That the Notification dated 5th July-2007 ( P-1 (colly) issued by the State Govt. which is adopted in the policy of Thermal Plant Jharli (Jhajar) directing respondents to take the following steps regarding to provide the employment in lieu of land acquired which is mentioned in Para no.(i) of that Notification. One of the step is reproduced below:-

**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.

In this way, petitioner’s case covered above mentioned para of that policy (Ann.P-1) because when the Notification u/s 4 of the Land Acquisition Act was issued for setting up thermal plant than family of the petitioner was stood on the date, the land was acquired.

Further this Hon,ble Court in CWP 6505 of 2013 decided on 26.11.2015 settled same controversy and held “ 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 Acre. 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…….” And Hon,ble High Court further held:-

“ Thus the ground of 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.”

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 21.03.2018 (Annexure P-3) passed by the respondent no.1 whereby the claim for employment/Govt. job from oustees quota has been rejected which is contrary to the policy dated 07.10.2007/13.1.2014 vide Annexure P-1 as the land of the family was acquired of more than two acres but no employment 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.1 and 2 to consider the claim for employment in oustee quota in terms of policy decision Annexure P-1 and granted him the employment/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: 1 . 8 .2018

THROUGH COUNSEL

(SURESH AHLAWAT )

ADVOCATE

**VERIFICATION:**

Verified that the contents of above writ petition from para no.1 to 6 & 8 to 9 to are true and correct to my knowledge and those of para no. 7 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: 1.8 .2018

**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 12marlas (i.e more then 2 acres ) agriculture land of the family of the petitioner has been acquired in the name of his father Sh. Manphool and his uncle Madan. .

That the petitioner has passed 10th class his date of birth is 24.6.1997 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.

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 than he also applied for employment before the Deputy Commissioner -Jhajjar whose application for employment has been forwarded by Deputy Commissioner along with other similar situated applicants to the respondent on the basis of revenue report submitted by the SDO (Civil) Jhajjar in which the claim of the petitioner figured at Serial No.5. The Respondent no.2 on **21.3.2018** returned back applications to the respondent no.3 ,on the ground that the claim of the petitioner and other applicants is over and above the list of 293 land oustees which have already been recommended by your office and such type of applications have already been rejected.

Hence, this present petition.

**CHANDIGARH (SURESH AHLAWAT)**

**DATED: 01.08.2018 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

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

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

Rajesh Kumar . . ….. …Petitioner

VERSUS

Haryana Power Generation Corporation Ltd & Ors … ….. Respondents

Rajesh Kumar aged 21 years s/o Manphool Singh s/o Late Sh. Nihal Singh resident of Vill. Khanpur- Khurd,Tehsil-Matanhail Distt. Jhajjar.

I, the above named deponent do, hereby solemnly affirm and declare as under:-

1. That the deponent is filing the accompanying writ petition, the contents of which may also be treated as a part of this affidavit.

2. That the deponent is competent to file this affidavit and is well conversant with the facts and circumstances of the case. The averments made in the present writ petition are true and correct to my knowledge. No part of it is false and nothing material has been kept concealed therein.

CHANDIGARH

DATED:

### VERIFICATION: -

Verified that the contents of para no.1 & 2 of my above mentioned affidavit are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED:

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

CWP No. \_\_\_\_\_\_\_\_\_\_\_\_\_OF 2018

Rajesh Kumar ---- -------- …Petitioner

VERSUS

Haryana Power Generation Corporation Ltd & Ors ----Respondents

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr. No | Particulars | Date | Pages | Court fee |
| A | Court Fee | 1.8.2018 |  |  |
| 1. | List of Date & Events | 1.8.2018 | 1-2 |  |
| 2. | Civil Writ Petition | 1.8.2018 | 3-15 | 50.00 |
| 3. | Affidavit in Support | 1.8.2018 | 16 |  |
| 4. | **ANNEXURE P-1**  Copy of Policy (colly) | ---- | 17-29 | 8.45 |
| 5. | **ANNEXURE P-2**  Copy of certificate and Application (Colly) | ---- | 30-32 | 1.95 |
| 6. | **ANNEXURE P-3**  Copy of Impugned Letter | **21.3.2018** | **33-37** | 3.25 |
| 7. | **ANNEXURE P-4**  A true translated copy of recommended letter | 2.6.2014 | 38-39 | 1.30 |
| 8. | **ANNEXURE P-5**  A Copy of returned letter | 18.6.2015 | 40-45 | 3.90 |
| 9. | **Annexure P-6**  Copy of true translated affidavits (colly) | 30.1.2018 | 46-47 | 1.30 |
| 10 | **Annexure P-7** (True photo copy of letter | 17.11.2017 | 48 | 0.65 |
| 11 | **Power of Attorney** |  | 49 | 2.75 |
|  |  |  |  |  |
|  | **VRNACULARS** |  |  |  |
| 12 | **Annexure P-2 ( Photo copy endorsed by revenue authority)** |  | 50 |  |
| 13 | **Annexure P-4 (** A Copy of recommended letter) | 30.1.2018 | 51 |  |
| 14 | **Annexure P-6**  Photo Copy of affidavits (colly) |  | 52-53 |  |

TOTAL FEE RS.73.55

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

3 Caveat petition filled :- No.

**4. 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**

1. **CWP No.19835 of 2017 fixed for 10.9.2018.**

In this case claim of the petitioner rejected on the ground it is over and above the list of 293 land oustees received from the office…

**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

CWP No. \_\_\_\_\_\_\_\_\_\_\_\_\_OF 2018

Rajesh Kumar …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

**SURESH AHLAWAT, ADVOCATE**

**PUNJAB & HARYANA HIGH COUR CHANDIGARH CHAMBER NO. 62, (94171-11917) # 413 Sector -11, Panchkula**

**======================================== Registered A.D. Dated :-**

**TO**

* 1. Chief Engineer ( Admn.) , Haryana Power Generation Corporation Ltd. Urja Bhawan Sector-6 Panchkula.
  2. Deputy Commissioner, Jhajjar.

**Sub. Legal Notice cum Final Demand Notice**

Under the instructions from and on behalf of **Brij Mohan** s/o Sh. Rohtash and **Shari Bhagwan** s/o Badri Narayan resident of Vill. Khanpur Khurd Tehsil Matanhail Distt. Jhajjar at present residing at Vill. Karola Tehsil Faruk Nagar Distt. Gurugram (hereinafter referred to my client ) I hereby serve upon you with the following legal notice:-

1. That land of the family of the above stated my clients was acquired in 2007 for setting up thermal power plant -Jharli (Jhajjar). As such more than two acre land each ( individual two acre not in share) of the my clients has been acquired. 26 kanal 5 marla land of the family of Brij Mohan and 28 kanal 5 marlas land of the family of Shari Bhagwan was acquired.
2. That as per the announcement by the Chief Minister on 7.10.2007 scheme was declared by Haryana Government that one member each of the families whose land i.e minimum two acre has been acquired shall be given employment in class III and Class IVth category in accordance with his educational qualification.
3. That as per the land oustees policy both my clients submitted their application form for employment in the office of the Deputy Commissioner Jhajjar time and again but no response was received after some time my clients have also filled the applications under RTI but no status report was received . Ultimately both my clients served the legal notice on 2.11.2017 same was replied by your office on 17.11.2017 that Deputy Commissioner –Jhajjar has not forwarded/sent your names for employment to this office as done in the other land oustees cases so, one more opportunity is given to remaining eligible land oustees candidates and in this regard to contact the office of the Deputy Commissioner-Jhajjar and submitted their application form . **A copy of this letter 17.11.2017 is attached herewith.**
4. That both my clients submitted their application forms along with other relevant documents in the office of the Deputy Commissioner –Jhajjar and D.C. Jhajjar forwarded their applications to your office on 15.1.2018 but your office raised the some objections on applications forms of my clients that documents are not complete and returned the same to the office of D.C.Jhajjar and one copy each of this sent to my clients for information. **A copy of this letter dated 28.2.2018 is attached herewith .**
5. That both my clients again submitted their application form with proper documents desired by you in the office of the Deputy Commissioner –Jhajjar in the March-2018 .But till now no information has received regarding their employment . When my clients contacted in this regard than office of the Deputy Commissioner –Jhajjar verbally informed that your application forms for employment have been forwarded to HPGCL Panchkula. But office of the HPGCL Panchkula orally informed that yours application forms have not been forwarded by the office of the Deputy Commissioner –Jhajjar.

So, you are requested to consider the claim of my clients for employment as per the land oustees policy

1. It is submitted that your good offices shall keep in view the latest decision of the Hon,ble Punjab and Haryana High Court given in the CWP No 526 of 2004 titled as Rajiv Alias Ruli Vs State of Haryana, the exact of which has been supplied by the Chief Secretary to Govt.of Haryana vide Memo no. 62/74/2004/6GSI dated 22.3.2004 to aIl the Heads of Department in Haryana for strict compliance . It has been stressed in the said judgment that legal Notices / notices of demand for justice must be promptly attended to and appropriate reply to the notice should be given within maximum period of **ONE MONTH** and accordingly request is being made for a prompt decision and appropriate response in the matter.

You are , therefore , requested through this Notice to consider the claim of my clients for employment as per the land oustees policy and employment letter to my clients be also given , **with in a pried of one months** from the date of receipt of this notice. so that, they may join the govt. service , failing which my clients will be left with no other alternative remedy except to file the writ petition in the Hon.ble Punjab & Haryana High Court, Chandigarh and in that case all the concerned authorities shall be responsible for costs and litigation expenses . Please take this notice and ensure compliance.

A copy of this notice has been retained in my office for further reference and record.

**SURESH AHLAWAT**

**ADVOCATE**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

COCP NO 0F 2018

IN C.W.P. No. 24567 of 2017

Sanjay Kumar Thakran (aged about 36 years) son of Sh. Ram Chander Thakran,resident of VPO Jharsa,Patti Panchiya,Distt. Gurugram.

-------------Petitioner

**VERSUS**

Smt. Keshani Anand Arora I.A.S. Additional Chief Secretary-cum-Financial Commissioner to Govt. of Haryana, Revenue Department , New Haryana Civil Secretariat, Sector -17 Chandigarh.

-------------------- Respondent

Chandigarh SURESH AHLAWAT

DATED 15.8.2018 ADVOCATE

COUNSEL FOR THE PETITIONER

Contempt Petition under Section 12 of the Contempt of Court Act-1971 for initiating contempt proceedings against the respondents for non-compliance and non-implementing the order dated 31.10.2017 passed in CWP no. 24567 of 2017 titled as Sanjay Kumar Thakran Versus State of Haryana by this Hon,ble Court willfully and deliberately.

RESPECTFULLY SHOWETH:

1. That the petitioners being aggrieved from non-compliance of order dated 31.10.2017 on part of respondent intentionally and deliberately is entitled to invoke inherent jurisdiction of this Hon,ble Court by filing present petition under section 12 of the Contempt of Courts Act,1971.
2. That the petitioners had filled a civil writ petition no. 24567 of 2017 titled as Sanjay Thakran versus State of Haryana before this Hon,ble Court. The petitioners have filed the writ petition seeking following relief :-

CIVIL WRIT PETITION Under Article 226 of the Constitution of India for issuance of writ in the nature of Mandamus directing the respondent to publish in the Official Gazette of Haryana for attachment of the immoveable property of the defaulters (Annexure P-3) in the terms of the section 4(1) (ii) of the “ The Haryana protection of Interest of Depositors in Financial Established “Act .2013

1. That the above noted writ petition came up for final hearing on 31.10.2017 and the Hon,ble Mr. Justice Rajan Gupta disposed of that writ petition with the direction that representation Annexure P-5 in the office of the respondent if received , may kindly be looked into and appropriate action as deemed fit be taken thereon. A Copy of the order dated 31.10.2017 passed by this Hon,ble Court and representation dated 25.8.2017 submitted by the petitioner to the respondent are annexed herewith as **Annexure P-1 and Annexure P-2 .**
2. That the petitioner immediately sent a copy of the order passed by the this Hon,ble Court along with docket by the Registrar of this Hon,ble High Court. Moreover, the petitioners also had supplied a certified copy of the order dated 31.10.2017 to the office of the respondents on dated 10.11.2017 and requested to take immediate compliance of the order.
3. That despite supplying the copy of the order , the respondents did not take any action on the representation of the petitioner. Petitioner met the official of the respondent many times to know the status of his case official of the respondent told to the petitioner that your case is not related to this office and further told that your case has been sent by this office to the Finance department on **4.4.2018 vide letter no. U.O.No.149 –R-2-2018/476 IFCC Branch 7th floor main Sectriate Haryana Chandigarh**. Than he contacted to the official of the Financial Department they told to the petitioner that your case wrongly sent to our department by the Revenue Department and our department have no power /jurisdiction to publish the order passed by the Court of the District Magistrate Gurugram in official Gazette for attachment of the immovable property of the defaulters under section 4 of the “ The Haryana protection of Interest of Depositors in Financial Established “Act .2013 and further told to the petitioner that your case returned back to the Revenue Department . Then , petitioner approached to the office of the respondent and official told him that yours case still is pending before the Department of Finance.
4. That despite repeated requests and frequent visits, grievance of the petitioners has not yet been redressed. Even they are not listened by the respondent and respondent is not caring about order passed the Hon,ble Court.
5. That more than eight months have expired from the date of passing of order dated 31.10.2017 by this Hon,ble High Court , but the respondent did not pay any heed and is not implementing the order for its compliance. The act and conduct of the respondent shows clear cut willful and deliberate disobedience of the order dated 31.10.2017 passed by this Hon,ble High Court.
6. That no such or similar petition has earlier been filed either before this Hon,ble Court or Hon,ble Supreme Court.

It is, therefore, respectfully prayed that present contempt petition may kindly be allowed, contempt proceeding against the respondents for non-compliance and non-implementing the order dated 31.10.2017 passed in CWP no. 24567 of 2017 by this Hon,ble Court willfully and deliberately may kindly be initiated under the provision of the Contempt of Courts Act, 1971, in the interest of justice.

Any other relief to which this Hon’ble Court deems fit and proper in the peculiar facts and circumstances of the present case may also be granted in favour of the petitioners.

It is further prayed that the petitioners may kindly be exempted from certified/true typed copy of annexure P-1and P-2, in the interest of justice.

Chandigarh SURESH AHLAWAT

DATED : 15..8.2018 ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF PUNJAB & HARYANA

AT   CHANDIGARH

COCP NO 0F 2018

IN C.W.P. No.24567 of 2017

Sanjay Thakran -----------Petitioner

                                      Versus

Smt. Keshani Anand Arora  ------------Respondent

Total Amount of Court Fee Affixed.

SURESH AHLAWAT

Chandigarh Advocate

Dated: 15.8.2018                   Counsel for the Petitioner

IN THE HIGH COURT OF PUNJAB & HARYANA

AT   CHANDIGARH

COCP NO 0F 2018

IN C.W.P. No. 24567 of 2017

Sanjay Thakran -----------Petitioner

                                      Versus

Smt. Keshani Anand Arora  ------------Respondent

Affidavit of Sanjay Kumar Thakran (aged about 36 years) son of Sh. Ram Chander Thakran,resident of VPO Jharsa,Patti Panchiya,Distt. Gurugram.

I, the above named deponent, do hereby solemnly affirm and declare as under:-

1. That the contents of paras of the petition are true and correct to my knowledge . No part therein is false and nothing material has been kept concealed therein.
2. That no such or similar petition has been filed by the deponent either in this Hon’ble Court or before the Hon’ble Supreme Court of India.

CHANDIGARH

DATED:- .8.2018

VERIFICATION: Verified that the contents of paras of my above affidavit are true and correct to my knowledge . No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED .8.2018

IN THE HIGH COURT OF PUNJAB & HARYANA

AT   CHANDIGARH

COCP NO 0F 2018

IN C.W.P. No. 24567 of 2017

Sanjay Thakran -----------Petitioner

                                      Versus

Smt. Keshani Anand Arora  ------------Respondent

INDEX

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr.  No. | Particulars | date | Pages | Court fee |
| 1. | Contempt Petition under Section12 of the Contempt of Court Act,1971 | 15.8.2018 | 1-4 |  |
| 2 | Affidavit | .8.2018 | 5 |  |
| 3 | Annexure P-1(Order of High Court) | 31.10.2017 | 6-8 |  |
| 4. | Annexure P-2 ( representation ) | 25.8.2017 | 9-12 |  |
| 5 | Power of Attorney |  | 13 |  |

CHANDIGARH SURESH AHLAWAT

ADVOCATE

DATED:  15.8.2018         COUNSEL FOR THE PETITIONER

To

1. Additional Chief Secretary to Govt. of Haryana , Department of Revenue and disaster Management ,Haryana Civil Secretariat –Sector-17 ,Chandigarh.

2. Deputy Commissioner, Panchkula.

**R/Sir**

Kindly compliance the **Order dt. 217.7.2018** passed by the Hon,ble Punjab . & Haryana High Court in **CWP no. 4833 of 2016 titled as Anand Singh v/s State of Haryana**  regarding :- To grant deemed date of appointment to the petitioner as that has been given to the other appointed candidates in pursuance of the same selection list dated 15.10.1989 issued by the Haryana Staff Selection Commission , same selection process **and grant the benefit of notional pay fixation at par with the candidates /employees with all consequential benefits who have joined their services prior to the petitioner i.e in the year 1990 .**

It is ,therefore, requested to your good self that kindly look in to the matter for compliance the order of Hon,ble High Court and do the needful within **FOUR MONTHS** from the date of receipt of this letter , otherwise petitioner would be compelled to file a contempt petition.

Requested for early action please.

**Petitioner /Applicant**

Anand Singh s.o Sh. Rattan Singh presently posted as clerk in the office of the Deputy Commissioner, Panchkula

**DA :-** certified copy of order attached herewith.

Department of Telecommunication

Office of the GMT Gurgaon

Memo No. A-1/ Pay fix/ P/M/122 **Dated 15.3.2000**

In pursuance of GMT D FBD Memo no. GMT/FBD/E-33/Trg/TM/99-200/64 dt. 28.2.2000 and SDE( Admn.) o/o GMT Gurugram Memo no. 8-1/Promotion /Tfr/PM/vii/Gar. /11 dt. 6.3.2000, the following official have been placed in the grad of Rs. 3200-85-4000 wef 29.1.2000 under FR-22 (1) a (1).

Sr. No. Name of the Dt. of promotion Pay in NI Pay Fixed Remarks

Official old scale in new scale

1. **Devki Nanadan** 29.1.2000 3080 3140 3200 1.1.2001

PM

1. **Basti Ram** 29.1.2000 3080 3140 3200 1.1.2001

PM

Xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

A.O. Gorgaon

CC 1. S/ Branch of the official

2 Pay Branch GGR.

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2018

**1.** Brij Mohan aged 38 years s/o Sh. Rohtash

2. Shari Bhagwan aged 48 years s/o Sh. Badri Narayan

both resident of Vill. Khanpur Khurd Tehsil Matanhail Distt. Jhajjar at present residing at Vill. Karola Tehsil Faruk Nagar Distt. Gurugram --------------- Petitioners

**Versus**

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

2. Chief Engineer ( Admn.) , Haryana Power Generation Corporation Ltd. Urja Bhawan Sector-6 Panchkula.

3 Deputy Commissioner, Jhajjar -------------Respondents

Chandigarh SURESH AHLAWAT

Dated: 15. 11.2018 Advocate

Counsel for the Petitioners

CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India for the issuance of a writ in nature of Mandamus, directing to the respondents to issue appointment letter to the petitioners for the post, according to their education qualification , in terms of the policy decision (land oustees) Annexure –P-1

**In the alternative** the respondents be directed to take the final decision on the legal notice dt. 14.8.2018 (Annexure P-5 )

*RESPECTFULLY SHOWETH*

**1.** That the petitioner is a resident of District Jhajjar (Haryana) and as such being a citizen of India, he is fully competent to invoke the extra ordinary writ jurisdiction of this Hon’ble Court under Articles 226/227 of the Constitution of India by way of the present writ petition.

2. That 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

3. That on dated 7.10.2007/13.1.2014 a scheme/policy was formulated by the State Govt. that one member each of the family whose land has been acquired for setting up thermal power plant , 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. A copy of said policy is being attached herewith as **Annexure P-1.**

As such more than two acre land of the family of the petitioners was acquired i.e. 26 kanal 5 marla land of the family of the petitioner no.1 and 28 kanal 5 marlas land of the family of petitioner no.2 was acquired.

4. That both the petitioners possessing the qualification of Govt. employment of peon as per the policy of land oustees because they have passed the 10th class and more than 2 acre of their family’s land has been acquired .As per the land oustees policy both the petitioners submitted their applications form being fully eligible in the office of the respondent no.3 i.e. Deputy Commissioner Jhajjar with all the requisite documents with the consent of their all family members in Jan. 2009 and again in the month of July-2013 but no response was received. Then after some time, both the petitioners also filled the applications under RTI Act in the office of the respondent no.3 for ascertaining the status of their case but no status report has been given . Ultimately both the petitioners served the legal notice through their counsel on 2.11.2017 to the respondents same was replied by the respondent no.2 i.e Chief Engineer on 17.11.2017 that respondent no. 3 i.e Deputy Commissioner –Jhajjar has not forwarded your names .So, one more opportunity is given to the eligible candidates to contact the office of the Deputy Commissioner-Jhajjar and submit their applications along with relevant documents .Copies of the legal notice dated 2.11.2017 submitted by the petitioners and its reply dated 17.11.2017 given by the respondent no. 2 are being attached herewith as **Annexure P-2 and P-3.**

5. That in the month of the Jan.2018 both the petitioners submitted their application forms along with other relevant documents in the office of the respondent no.3 i.e Deputy Commissioner –Jhajjar and respondent no.3 forwarded their documents to the respondent no. 2 on 15.1.2018 but in the next month i.e in Feb. 2018 respondent no. 2 returned the same to the office of respondent no 3 i.e. in the office of the Deputy Commissioner Jhajjar with some objections on forwarded documents by saying that documents of the applicants are not complete, send it again with complete in all respects . A copy of said letter dated 28.2.2018 is being attached herewith as **Annexure P-4.**

It is pertinent **to** mention here that petitioner no.2 Shri Bhagwan submitted application form for employment of his son Harsh (minor).

6. That both the petitioners again submitted their applications forms with proper documents desired by respondents in the office of the respondent no. 3 i.e Deputy Commissioner –Jhajjar in the March-2018 .But till now, no information has received regarding their employment . When petitioners contacted in this regard, than office of the respondent no.3 i.e Deputy Commissioner –Jhajjar verbally informed that your application forms have been forwarded to HPGCL Panchkula. But office of the HPGCL Panchkula verbally informed that yours application forms have not been forwarded by the office of the Deputy Commissioner –Jhajjar so far and contact to Mrs.Kaushla Devi dealing hand at Jhajjar i.e office of the Deputy Commissioner . When both petitioners contacted the official of the respondent no.3 at Jhajjar then she told this matter is under consideration.

7. That whereas 8-9 months have lapsed, every time stated that matter is under consideration but all in vain. Then petitioner again served the legal notice on 14.8.2018 to the respondents. But no action has been taken till date for the reason best known to the respondents. Petitioners running from pillar to post to get the employment being member of the displaced family. But the respondents are delaying the matter on one excuse or the others . A copy of the legal notice dated 14.8.2018 served to the respondents is being attached herewith as **Annexure P-5.**

8. That the four villages, whose land was acquired for setting up thermal power plant , in most of cases the appointment letters of the similar situated persons have been issued in the month of March -2014 and govt. jobs have been provided , more then 50 persons of land oustees of the petitioner’s village were provide the employment in the UHBVN,DHBVN,HVPN according their qualification and whose more than 2 acre of land was acquired but in the case of the petitioners, nothing has been done which is the clear cut discrimination to the petitioners and this matter has been hanging fire since then.

**9.** That the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

a) Whether the action of the respondents is arbitrary and discriminatory which violative of Articles 14 and 16 of the Constitution of India?

b) Whether a grave manifest injustice has been caused to the petitioner?

**10.**  That there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Articles 226/227 of the Constitution of India.

**11.** That the petitioners have not filed any such or similar writ petition previously either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents.

PRAYER

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue: -

1. a writ in nature of Mandamus , directing to the respondents to issue appointment letters to the petitioners for the post, according their education qualification , in terms of the policy decision (land oustees) Annexure –P-1
2. In the alternative the respondents be directed to take the final decision on the legal notice dt. 14.8.2018 (Annexure P-5 )

iii) Any other appropriate writ, order or direction be also issued which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case and to which the petitioner is found entitled in law justice and equity.

iv) Service of advance notices upon the respondent be dispensed with.

v) Filing of true typed of annexures and certified copy of annexures be also dispensed with;

CHANDIGARH Through:

DATED: 15. 11 .1.**2018 (SURESH AHLAWAT)**

**ADVOCATE**

**Counsel for the petitioners.**

*VERIFICATION*

Verified that the contents of Para No. 1 to 8 and 10 to 11 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 9 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed there from.

CHANDIGARH

DATED:- 15. 11 .1.2018

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2018

Brij Mohan and another -------------- Petitioners

VERSUS

Haryana Power Generation Corporation Ltd. and others

-------------------- Respondents

**Affidavit**

Brij Mohan s/o Sh. Rohtash resident of Vill. Khanpur Khurd Tehsil Matanhail Distt. Jhajjar at present residing at Vill. Karola Tehsil Faruk Nagar Distt. Gurugram.

I, the above named deponent, do hereby solemnly affirm and declare as under:-

1. That the contents of paras of the petition are true and correct to my knowledge No part therein is false and nothing material has been kept concealed therein.

2. That no such or similar petition has been filed by the deponent either in this Hon’ble Court or before the Hon’ble Supreme Court of India.

CHANDIGARH

DATED:- 15 .11.2018

VERIFICATION: Verified that the contents of paras of my above affidavit are true and correct to my knowledge . No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED 15 .11.2018

LIST OF EVENTS

**20.11.2006** That 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 Thermal Power Plant in village Jharli District Jhajjar .

**7.10.2007**  CM announcement for providing the employment one member each of the family whose land has been acquired for the thermal power plant , then both the petitioners submitted their application form being fully eligible in the office of the respondent no.3 i.e. Deputy Commissioner Jhajjar with all the requisite documents with the consent of their all family members in Jan. 2009 and again in the month of July-2013 but no response was received.

**13.1.2014** That finally a full scheme/policy was declared by the State Govt. that one member each of the family whose land has been acquired for the thermal power plant , 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 more than two acre land of the family of the petitioners was acquired.

**17.11.2017** Then both the petitioners served the legal notice through their counsel on 2.11.2017 to the respondents same was replied by the respondent no.2 i.e Chief Engineer on 17.11.2017 that respondent no. 3 i.e Deputy Commissioner –Jhajjar has not forwarded your names .So, one more opportunity is given to the eligible candidates to contact the office of the Deputy Commissioner-Jhajjar and submitted their application form .

**Jan.-2018** and **Feb.2018** That in the month of the Jan.2018 both the petitioners again submitted their application forms along with other relevant documents in the office of the respondent no.3 but in Feb. 2018 respondent no. 2 returned the same to the office of respondent no 3 with some objections on forwarded documents by saying that documents of the applicants are not complete, sand it again with complete in all respect . **March -2018** That both the petitioners again submitted their application form with proper documents desired by respondents in the office of the respondent no. 3 i.e Deputy Commissioner –Jhajjar in the March-2018 .But till now no information has received regarding their employment . When both petitioners contacted the official of the respondent no.3 at Jhajjar than official of the respondent no.3 told that this matter is under consideration.

That more then 50 persons of land oustees of the petitioner’s village were provide the employment in the UHBVN,DHBVN,HVPN according their qualification and whose more than 2 acre of land was acquired but in the case of the petitioners nothing has been done which is the clear cut discrimination to the petitioners.

**14.8.2018** Than petitioner again served the legal notice on 14.8.2018 to the respondents. But no action has been taken till date for the reason best known to the respondents.

The matter has been hanging fire since then.

Hence this petition.

CHANDIGARH SURESH AHLAWAT

DATED: 15 .11.**2018 ADVOCATE**

**COUNSEL FOR THE PETITIONERS**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2018

Brij Mohan and another -------------- Petitioners

VERSUS

Haryana Power Generation Corporation Ltd. and others

-------------------- Respondents

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr. No | Particulars | Date | Pages | Court fee |
| A | Court Fee |  |  |  |
| 1. | List of Date & Events | 15.11.2018 | 1-2 |  |
| 2. | Civil Writ Petition | 15.11.2018 | 3-9 | 50.00 |
| 3. | Affidavit in Support | .11.2018 | 10 |  |
| 4. | **ANNEXURE P-1**  Copy of Policy | 7.10.2007/  13.1.2014 | 11-19 |  |
| 5. | **ANNEXURE P-2**  Copy of Legal Notice | 2.11.2017 | 20-24 |  |
| 6. | **ANNEXURE P-3**  Copy of its Reply | **17.11.2017** | **25** |  |
| 7. | **ANNEXURE P-4 (Copy of letter )** | 28.2.2018 | 26 |  |
| 8. | **ANNEXURE P-5 (Legal Notice)** | 14.8.2018 | 27-29 |  |
| 9 | **Power of Attorney** | 17.11.2018 | 30 |  |

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

3 Caveat petition filled :- No.

**4. Similar case if any: No**

**CHANDIGARH (SURESH AHLAWAT)**

DATED: 15.11.2018

**ADVOCATE**

**COUNSEL FOR THE PETITIONERS**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2018

Brij Mohan and another -------------- Petitioners

VERSUS

Haryana Power Generation Corporation Ltd. and others

-------------------- Respondents

**Court Fee**

**CHANDIGARH (SURESH AHLAWAT)**

DATED: 15.11.2018

**ADVOCATE**

**COUNSEL FOR THE PETITIONERS**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

Ms. Jyoti d/o Late Sh. Surender resident of House no. 543, near U.C.O. Bank ,Julana Distt. Jind. --------------------- Petitioner

Versus

**1.** Financial Commissioner-cum- Principal Secretary to Government Haryana, Welfare of Scheduled Castes and Backward Classes Department of Haryana , New Secretariat Haryana, Sector 17 Chandigarh.

2. The Director-General, Welfare of Scheduled Castes and Backward Classes Department, Haryana, S.C.O. No. 42-44, Haryana, Sector 17-A Chandigarh.

3. Principal of MSM Institute of Ayurveda, Sonipat.

4. Distt. Welfare Officer , Sonipat.

-------------Respondents

Chandigarh SURESH AHLAWAT

Dated: 10. 1.2019 Advocate

Counsel for the Petitioner

CIVIL WRIT PETITION under Article 226/227 of the Constitution of India for the issuance of a writ in nature of Mandamus be issued, directing the respondents to for grant of Post Matric Scholarship/stipend to SC/BC students for the year 2016-17 and 2017-2018. , in terms of the policy Annexure –P-1

*RESPECTFULLY SHOWETH*

**1.** That the petitioner is a resident of District Jind (Haryana) and as such being a citizen of India, he is fully competent to invoke the extraordinary writ jurisdiction of this Hon’ble Court under Articles 226/227 of the Constitution of India by way of the present writ petition.

**2. That**  Govt. of Haryana formulated a scheme to provide the post matric scholarship to the students belonging to the Scheduled cast family, whose income is less then Rs. two lakh per annum

**3. That** petitioner is the student of BAMS 3rd year in MSM Institute of Ayurveda Sonipat .She had enrolled in the year 2015 and belongs to Scheduled Cast family (S.C.) .My client applied for the post matric scholarship scheme being a Scheduled Cast student according to policy of Har. Govt. But she got only one year scholarship i.e for the session 2015-16. But the your good office is not released for the two year i.e 2016-17 and 2017-18. My client through her college has already submitted representations and legal notice dated 16.7.2018 to BPS Mahilla Vishwavidyalaya Khanpur . But official of the university replied the said notice on 10.8.2018 that Scholarship form of Ms Jyoti d/o Sh. Surender for the session 2016-17 has been forwarded to DWO Sonipat vide letter no. BPSMV/17/696 dt. 10.4.2017(F/A) which is attached herewith . But your office has not released the post matric scholarship under the Govt. Scheme last two years.

2.**That** father of my client is a laborer his income is less than 88000/- per year .It is very hard for her/him to pay full college and hostel fees every year without getting any scholarship .

IN THE HIGH COURT FOR THE STATES PANJAB AND HARYANA AT CHANDIGARH

C.M.NO. OF 2019

IN RA-RF No. of 2019

In R.F.A. NO 7234 of 2014

Abhey Ram and others …………..Applicants-Appellants

Versus

State of Haryana and another --------- Respondents

Application under Rule 2, Chapter 1 Part C of Vol.-5 of Punjab High Court Rules and Orders R/W Order 22 Rule 3 read with section 151 of C.P.C. for bringing on record the L.R.s of deceased Om Parkash son of Rattnu, appellant no.3 (LAC Case No 102 of 2011) in the above mentioned Appeal.

RESPECTFFULY SHOWETH;

1. That the above noted review application filed in this Hon’ble Court which is likely to succeed on the grounds mentioned therein.   
2. That appellant no.3 Om Parkash has died on dated 31.5.2015 in his Village Safidon Distt.Jind .

3. That Om Parkash son of Rattnu who was appellant no. 3 has left behind his following L.R.s:-

1. Kitabo Devi (widow) 2. Vinod kumar (son )

3. Parmod (son )

All residents of Safidon Tehsil Distt.Jind.

**4 .** That there are no other legal heirs of the deceased   
  
 Om Parkash except above mentioned heirs.

It is therefore, respectfully prayed that this application may kindly be allowed and the names of the above mentioned applicants be brought on record, as L.R.,s of Om Parkash in the interest of justice.  
  
Place: Chandigarh SURESH AHLAWAT

Dated:- Advocate  
 Counsel for Applicants/appellants

Note: Affidavit is attached here with.

IN THE HIGH COURT FOR THE STATES PANJAB AND HARYANA AT CHANDIGARH

C.M. No. OF 2019

IN RA-RF No. of 2019

IN R.F.A. NO 7234 of 2014

Abhey Ram and others …………….. Applicants/Appellants

Versus

State of Haryana and another -------------Respondents  
 Affidavit of Subhash s/o Rattnu resident of Safidon Tehsil & Distt. Jind

I, the above named deponent do hereby solemnly affirm and declare as under:-  
1 . That appellant no.2 Om Parkash has died on dated 31.5.2015 in his Village Safidon Distt.Jind .

2. That Om Parkash son of Rattnu who was appellant no.3 has left behind his following L.R.s:-

1. Kitabo Devi (widow) 2. Vinod kumar (son ) 3.Parmod (son ) All residents of Safidon Tehsil Distt.Jind.  
**3 .** That there are no other legal heirs of the deceased   
 Om Parkash except above mentioned heirs.

Place:

Dated:

Verification :

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

Place:

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

RA-RF No. of 2019

IN R.F.A.NO.7234 of 2014

IN LAC NO. 102 of 20.1.2011

Notification u/s 4 dt 23.8.2007

Revenue Estate of Six Vill.,Rampura Singhpura,Ratta-

Khera ,Khera-Khemawati and Safidon Tehsil & Distt Jind.

**AMENDED MEMO OF PARTIES**

1. Abhey Ram (about aged 80 years)
2. Hukam Chand (about 62 years)

3. Om Parkash (since deceased) through his L.R.s:-

i) Kitabo Devi aged about 54 years (widow)

ii) Vinod Kumar aged about 28 years (son)

1. Parmod aged about 24 years (son)

4. Subhash aged about 54 years)

( Appellants no 1 to 4 sons of Rattanu

All resident of Safidon Tehsil & Distt. Jinx.

**Versus**  ------------------Appellants

1. State of Haryana through its Collector, Jind Distt. Jind

2.Land Acquisition Collector, (HUDA) Hissar-

-------------------- Respondents

Place;Chandigarh (SURESH AHLAWAT)

Advocate

Date :- 26.1.2019 Counsel of the appellants

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RA-RF No. \_\_\_\_\_\_\_\_\_ of 2019

In

RFA No. 7234 of 2014

|  |  |
| --- | --- |
| Abhey Ram & Others | …………… Applicants-Appellants |
| VERSUS | |
| State of Haryana & another | ……….… Respondents |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| SR. NO. | PARTICULARS | | DATE | PAGE | C. FEE |
| 1. | Application for condonation of delay | | 26.01.2019 | 1-4 | 2.75 |
| 2. | Affidavit | | 29.01.2019 | 5 |  |
| 3. | Application for bringing the LR,s | | 26.01.2019 | 6-7 | 2.75 |
| 4. | Affidavit in support | | 29.01.2019 | 8 |  |
| 5. | Review Application | | 26.01.2019 | 9-15 | 2.75 |
| 6. | Affidavit | | 29.01.2019 | 16 | 0.00 |
| 7. | Amended memo of Parties | | 26.01.2019 | 17 | 100.00 |
| 8 | ANNEXURE*:* | |  |  |  |
|  | A-1: Order of High Court | | 22.12.2015 | 18-25 | 2.75 |
|  | *A-2: Order of Apex Court 27.10.2017 26-58 5.25* | | | | |
| A-3: | Order of Apex Court (Colly) | 23.2.2018/  31.10.2018 | 59-60 | 10.50 |
| A-4: | Order of Apex Court | 23.02.2018 | 61 | 5.25 |
| A-5: | Order of High Court | 13.07.2018 | 62-66 | 2.75 |
| **A-6:** | **Order of High Court** | **21.12.2017** | **67-68** | 2.75 |
|  | A-7 Order (colly) | | 69- | | |
| 10 | Power of Attorney 19.1.2019 Total= | | | | 2.75 |

Note:- Any such or similar review application RA-RF-158-CI-2016

And RA-RF-163,182-183-CI-2018 in RFA 4403-04, 4406 0f 2018

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: 26.01.2019 | [SURESH AHLAWAT]  ADVOCATE  COUNSEL FOR THE APPLICANTS-APPELLANTS |

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM No.\_\_\_\_\_\_\_\_\_\_\_\_\_ of 2019

In RA-RF No. \_\_\_\_\_\_\_\_ of 2019

In RFA No. 7234 of 2014

|  |  |  |
| --- | --- | --- |
| Abhey Ram & Others | | … Applicants-Appellants |
| VERSUS | | |
| State of Haryana & another | | … Respondents |
|  | Application under Section 5 of the Limitation Act for condonation of delay of days, in filing the present review application. | |

RESPECTFULLY SHOWETH:

1- That the above said application is filed before this Hon’ble Court and appellants-applicants are very hopeful of its success on the basis of grounds taken therein.

2- That the claims of landowners under Section 18 of the Land Acquisition Act were dismissed by the Reference Court, Jind vide judgment/order dated 17.12.2013. Thereafter, in appeal this Hon’ble Court though maintained the assessment as regard the land abutting the road upto the depth of 2 acres @ Rs.33,00,000/- per acre but the compensation qua the land situated beyond 2 acre was enhanced from Rs.18,00,000/- per acre to Rs.24,75,000/- per acre, vide order & judgment dated 22.12.2015 rendered in “RFA No.1515 of 2014 titled as Harijan Cooperative Society Ltd. Vs. State of Haryana & Another” along with other connected matters.

3 That the present Review Petition is being filed seeking review of judgment dated 22.12.2015 passed by this Hon’ble Court in a batch of RFA,s rendered in “RFA No.1515 of 2014 titled as Harijan Cooperative Society Ltd. Vs. State of Haryana & Another” along with other connected matters.. By way of this judgment , 237 appeals filed under section 54 of the land Acquisition Act, 1894 were decided and compensation in respect of Notification dated 23.8.2007 seeking to acquire the agriculture land of HUDA Sector- 7,8 and 9 of Safidon City,Distt. Jind was fixed. A total compensation of Rs. 33 Lacs per acre for Land up to depth of 2 acre in Safidon -Jind Road and Rs. 24,75,000/- per Acre from the Land beyond the 2 Acres aforementioned.

4. That in the meantime, out of this bunch matter, some landowners approached to the Hon’ble Apex Court and their appeals has been partly allowed in Bijender case vide judgment/order dated 27.10.2017 and enhanced the compensation from Rs. 33 lacs to Rs. 45 Lacs per acre. Thereafter, the present applicants-appellants along with other land owners have also approached to the Hon’ble Apex Court vide SLP (Civil) Diary No. 3802 of 2018 in a bunch for same relief which was granted to other landowners, but the same has been dismissed by Hon,ble Supreme Court only on the ground of delay in filing the SLP vide order dated 19.02.2018.Than appellants /applicants filed the review petition (c) no. 3187 of 2018 against said order but Hon,ble Apex Court also dismissed the said review petition vide order dated 31.10.2018. Where as, some other land owners who have also approached to the Hon,ble Supreme Court by filing the SLP,s after decided the Bijender Case but the same has been withdrawn due to delay in filing the SLP,s by their counsel vide order dated 23.2.2018 , thereafter these land owners filed the 48 review applications before this Hon,ble Court ,same were allowed by this Hon,ble High Court, vide order dated 13.7.2018 in terms of the Hon,ble Supreme Court in Bijender case after condoned the delay more than 800 days in filing the review applications.

5. That the premise of the present review Petition , apart from the fact that there are subsequent events , is to seek parity in compensation between Landowners who have lost their land pursuant to the same Section 4 of the Notification . The averments made in the review petition may be read as part and parcel of the present application seeking condonation of delay and the averments are not being repeated for the sake of brevity.

6. That at very outset , it is relevant to point out that this Hon”ble Court in RFA no. 5428 of 2017 has condoned delay of 1373 days in respect of the same acquisition and has granted him the benefit of the compensation awarded by the Hon,ble Supreme Court. The delay was caused for reasons which this Hon,ble Court found to be insufficiently explained. However, since the law of delay which applies to grant of compensation to similarly situated landowners was applied and this Hon, ble Court has been pleased to condone delay by denying interest on compensation for the delayed period.

7. That the present appellants are poor landowners who have lost their valuable parcels of land by virtue of exercise of powers of Eminent Domain by the State. A paltry compensation has been offered since the determination factor was the old Act of 1894. Even for this compensation, the appellants have had to litigate for a period of over one decade resulting in to drainage of their financial resources.

8. It is humbly submitted, due to the reasons mentioned hereinabove now the present applicants-appellants are approached this Hon’ble Court by filing present review application, so due to which the said delay of days has been occurred but the same is neither intentional, nor deliberate. The appellants undertake to forego interest for the period of delay caused in filling the instant Review Petition.

It is, therefore, respectfully prayed that the present application may kindly be allowed and delay of --------- days in filing the present application may kindly be condoned in the interest of justice.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: 26.01.2019 | [SURESH AHLAWAT]  ADVOCATE  COUNSEL FOR APPLICANTS-APPELLANTS |

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM No.\_\_\_\_\_\_\_\_\_\_\_\_\_ of 2019

In RA-RF No. \_\_\_\_\_\_\_\_ of 2019

In RFA No. 7234 of 2014

|  |  |  |  |
| --- | --- | --- | --- |
| Abhey Ram & Others | | … Applicants-Appellants | |
| VERSUS | | | |
| State of Haryana & another | | | … Respondents |
|  | Affidavit of Subhash S/O Sh. Rattnu resident of Safidon, Tehsil & District Jind, Haryana. | | |

I, the above named deponent, do hereby solemnly affirm and declare as under:-

1. That accompanying application has been drafted by our counsel, on my instructions. Contents of the same has been read over and explained to me in Hindi, which we understand and admit to be correct. The contents of accompanying application may kindly be read as part of this affidavit. For the sake of brevity, contents of accompanying application have not been reproduced herein.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: .01.2019 |  |

VERIFICATION:-

Verified that the contents of my above affidavit are true and correct to my knowledge and no part of it is false and nothing has been concealed therein.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: .01.2019 |  |

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RA-RF No. \_\_\_\_\_\_\_\_ of 2019

In RFA No. 7234 of 2014

|  |  |  |
| --- | --- | --- |
| Abhey Ram & Others | | Applicants/Appellants |
| VERSUS | | |
| State of Haryana & another | | … Respondents |
|  | 2nd Review Application under Order 47 Rule 1 of CPC read with Section 151 of CPC for review the order dated 22.12.2015 passed by this Hon’ble Court in above said RFA, in view of judgment dated 27.10.2017 passed by the Hon’ble Apex Court in Civil Appeal No. 2846 of 2017, titled as Bijender & Others Vs. State of Haryana & Another. | |

RESPECTFULLY SHOWETH:

1- That the claims of landowners under Section 18 of the Land Acquisition Act were dismissed by the Reference Court, Jind vide judgment/order dated 17.12.2013. Thereafter, this Hon’ble Court though maintained the assessment as regard the land abutting the road upto the depth of 2 acres @ Rs.33,00,000/- per acre but the compensation qua the land situated beyond 2 acre was enhanced from Rs.18,00,000/- per acre to Rs.24,75,000/- per acre, vide order & judgment dated 22.12.2015 rendered in “RFA No.1515 of 2014 titled as Harijan Cooperative Society Ltd. Vs. State of Haryana & Another” along with other connected matters. The true Photostat copy of judgment dated 22.12.2015 is attached herewith as **Annexure A-1**.

2. That the present Review Petition is being filed seeking review of judgment dated 22.12.2015 passed by this Hon’ble Court in a batch of RFA,s rendered in “RFA No.1515 of 2014 titled as Harijan Cooperative Society Ltd. Vs. State of Haryana & Another” along with other connected matters.. By way of this judgment , 237 appeals filed under section 54 of the land Acquisition Act, 1894 were decided and compensation in respect of Notification dated 23.8.2007 seeking to acquire the agriculture land of HUDA Sector- 7,8 and 9 of Safidon City,Distt. Jind was fixed. A total compensation of Rs. 33 Lacs per acre for Land upto depth of 2 acre in Safidon -Jind Road and Rs. 24,75,000/- per Acre from the Land beyond the 2 Acres aforementioned

It is pertinent to mention here that the land of present applicants-appellants was abutted the road upto the depth of 2 acres and their case bearing RFA No. 7234 of 2014 was also decided on 22.12.2015 in terms of above said RFA bearing No. 1515 of 2014. So the compensation awarded by the L.A.O. @ Rs.33,00,000/- per acre to the present applicants was affirmed by this Hon’ble Court. Aggrieved this, the present applicants again approached this Hon’ble Court vide Review Application bearing No. 158-CI of 2016, which was also dismissed by this Hon’ble Court on 24.09.2016.

3. That at the very outset, it is required to be pointed out that from these acquisition and as the appellant could calculate from the record available with him , a total of 305 References ( Leading to decision dated 17.12.2013 passed by the Reference Court, Jind ) were decided. After that vide judgment dated 22.12.2015, this Hon,ble High Court decided 230 References while awarding the aforesaid sum mentioned in paragraph 1 and 2 to this petition.

4. That in the meantime, out of this bunch matter, some landowners approached to the Hon’ble Apex Court and their appeals has been partly allowed in Bijender case vide judgment/order dated 27.10.2017 in Civil appeal no. 2846 of 2017 and enhanced the compensation from Rs. 33 lacs to Rs. 45 Lacs per acre. The true Photostat copy of judgment dated 27.10.2017 is attached herewith as **Annexure A-2**.

5. That than after decided Bijender case by the Hon’ble Supreme Court, the present applicants-appellants along with other land owners have also approached to the Hon’ble Apex Court vide SLP (Civil) Diary No. 3802 of 2018 in a bunch for same relief, which was granted to other landowners, but same has been dismissed by Hon,ble Supreme Court only on the ground of delay in filing the SLP vide order dated 19.02.2018.Than appellants /applicants filed the review petition (c) no. 3187 of 2018 against said order but Hon,ble Apex Court also dismissed the said review petition vide order dated 31.10.2018. The true copy of order dated 23.02.2018 and 31.10.2018 are attached herewith as **Annexure A-3 (colly)**.

Where as, some other land owners, who have also approached to the Hon,ble Supreme Court through SLP,s after decided the Bijender case , same has been withdrawn due to delay in filing by their counsel vide order dated 23.2.2018. The true Photostat copy of order dated 23.02.2018 is attached herewith as **Annexure A-4**.

Thereafter these land owners filed the 48 review applications before this Hon,ble Court ,same were allowed by this Hon,ble High Court, vide order dated 13.7.2018 in terms of the Hon,ble Supreme Court in Bijender case and this Hon’ble court condoned the delay in filing the review applications of more than 800 days . The true Photostat copy of order dated 13.07.2018 is attached herewith as **Annexure A-5**.

6. It is respectfully submitted that judgment dated 22.12.2015 passed by this Hon’ble Court in a batch of 230 RFA,s was carried up in appeal by land owners of 122 RFA .The Hon’ble Supreme Court was pleased to marginally enhance the compensation so granted by this Hon’ble Court to Rs. 45 lacs per acre(up to 2 acre of depth) and Rs. 35 lacs per acre (for beyond 2 acre).

7. That some landowners approached this Hon’ble Court vide “RFA No. 5428 of 2017 titled as Rajiv & Another Vs. State of Haryana & Others” against the same Reference Court order dated 17.12.2013 with a delay of 1373 days which was disposed of by this Hon’ble Court in terms of above said Bijender’s case passed by the Hon’ble Apex Court, vide judgment dated 21.12.2017 and granted same compensation to them. And delay was condoned in terms of the judgment of the Hon,ble Supreme Court in Imrit Lal and Dhiraj Singh.The true Photostat copy of judgment dated 21.12.2017 passed by this Hon’ble Court is attached herewith as **Annexure A-6**.

8- That now the present applicants-appellants are again seeking to approach this Hon’ble Court by filing the instant second Review Application on the following grounds:

1. **Firstly**  subsequent to the passing of the order by this Hon’ble Court on dated 22.12.2015 , certain subsequent events have taken places ”which have direct nexus to the issue at hand” namely the grant of compensation . The appellants crave to rely upon certain judgments of the Hon’ble Supreme Court as also this Hon’ble Court to contend that a Review is maintainable on subsequent Events, the condition being that the subsequent events should have a direct nexus with the issue concerned . The subsequent Events are follows:-
2. By way of a judgment dated 27.10.2017, the Hon’ble Supreme Court in a batch of appeals ,one of them being Civil Appeal no. 2846 of 2017 titled Bijender and others versus state of Haryana and other has enhanced the compensation for landowners affected by the same acquisition as the present review petitioners;
3. By way of its order dated 21.12.2017 ( RFA No5428 of 2017),this Hon’ble court has not only condoned 1373 delays but has enhanced the compensation to bring those landowners as par to those who had approached the Hon’ble Supreme Court.

**Secondly ,** it is submitted that the judgment under review suffers from the following errors which are apparent from the face of record , namely non-consideration of the correct potential of the value of the land having regard to factors like location of the acquired land , its surrounding nature , potentiality, purpose of acquisition , non-availability of the sale deeds for large area sold in acres which has been considered by courts for the present acquisition in so far as other land owners are concerned.

**Third ,** Where as, some other land owners from the same notification , who have also approached to the Hon,ble Supreme Court by filing the SLP,s in ordinate delay after decided the Bijender Case , same has been withdrawn by their counsel vide order dated 23.2.2018.

Thereafter these land owners filed the 48 review applications before this Hon,ble Court ,same were allowed by this Hon,ble High Court, vide order dated 13.7.2018 in terms of the Hon,ble Supreme Court in Bijender case and this Hon’ble

applications of more than 800 days .

1. It is most respectfully submitted that de hors the technicalities, the principal followed in grant of compensation is that each landowner who has lost his land under the same notification should be granted the same compensation . It is on this rationale that even large delays in claiming compensation are condoned by denying the interest for the delayed period.
2. That in the facts of the present case, as on today, an out of the same notification, different people are enjoying different compensation .This disparity has occurred even for those who have approached court, albeit with some delay or for those who have not been able to approach a higher court for lack of resources. Out of nearly 1017 landowners who approached the ld. Reference Court , nearly 410 landowners enjoy a higher compensation . The appellants respectfully submit that the present review petition may kindly be considered to maintain uniformity. The present applicants are ready and willing to forego interest for the period of delay in approaching this Hon’ble Court again to enable this Hon’ble Court to balance equities between the landowners and the State Government.

11. That even like the applicant, Sh. Azad Singh and other filed the Review applications no RA-RF-182 -183 and 163 -CI-2018 in RFA no. 4403,4404 and 4406 of 2018 which were allowed on 14.9.2018 and 19.12.2018. Copies of order are attached herewith as **Annexure A-7.** (colly).

It is further submitted that SLP filled before the Hon’ble Apex Court by him/them like the applicant was also dismissed on 19.2.2018.

|  |  |
| --- | --- |
| **Sec** | |
|  |  | |
|  |  | |
|  |  | |

11. That the appellants-claimants have not filed any such or similar application earlier in this Hon’ble High Court or before the Hon’ble Supreme Court of India except RA-RF No. 158-CI of 2016.

It is, therefore, respectfully prayed that the present second review application may kindly be accepted and judgment/order dated 22.12.2015 passed by this Hon’ble Court in above said RFA be reviewed in view of judgment dated 27.10.2017 passed by the Hon’ble Apex Court in Civil Appeal No. 2846 of 2017, titled as Bijender & Others Vs. State of Haryana & Another, in the interest of justice.

It is further prayed that the applicants-appellants may kindly be exempted from filing certified/true copies of Annexures and permitted to place on record the fare Photostat/true copies of the same, in the interest of justice.

Note: Affidavit is attached along with this application.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: 26.01.2019 | [SURESH AHLAWAT]  ADVOCATE  COUNSEL FOR APPLICANTS-APPELLANTS |

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.M. No. of 2019

In RA-RF No. \_\_\_\_\_\_\_\_ of 2019

In RFA No. 7234 of 2014

|  |  |  |  |
| --- | --- | --- | --- |
| Abhey Ram & Others | | … Applicants-Appellants | |
| VERSUS | | | |
| State of Haryana & another | | | … Respondents |
|  | Affidavit of Subhash s/o Sh. Rattnu Resident of Safidon, Tehsil & District Jind, Haryana. | | |

I, the above named deponent, do hereby solemnly affirm and declare as under:-

1. That accompanying application has been drafted by our counsel, on my instructions. Contents of the same has been read over and explained to me in Hindi, which we understand and admit to be correct. The contents of accompanying application may kindly be read as part of this affidavit. For the sake of brevity, contents of accompanying application have not been reproduced herein.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: .01.2019 |  |

VERIFICATION:-

Verified that the contents of my above affidavit are true and correct to my knowledge and no part of it is false and nothing has been concealed therein.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: .01.2019 |  |

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM No. \_\_\_\_\_\_\_\_\_\_\_\_ of 2019

In RA-RF No.\_\_\_\_\_\_\_ of 2019

In RFA No. 7234 of 2014

|  |  |  |
| --- | --- | --- |
| Abhey Ram & Others | … Applicants-Appellants | |
| VERSUS | | |
| State of Haryana & another | | … Respondents |

COURT FEES

|  |
| --- |
|  |

Note: Total Court Fees of Rs. /- is affixed here.

|  |  |
| --- | --- |
| Place: Chandigarh  Dated: 26.01.2019 | [SURESH AHLAWAT]  ADVOCATE  COUNSEL FOR THE APPLICANTS-APPELLANTS |

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

R.F.A.NO.7234 of 2014

LAC NO. 102 of 20.1.2011 (Sr.N0.177)

Notification u/s 4 dt 23.8.2007

Revenue Estate of Six Vill.,Rampura,Singhpura,Ratta-

Khera and Khera-Khemawati Tehsil & Distt Jind.

**MEMO OF PARTIES**

1. Abhey Ram
2. Hukam Chand

3. Om Parkash

4. Subhash sons of Rattanu

All resident of Safidon Tehsil & Distt. Jind------- Appellants

VERSUS

1. State of Haryana through its Collector, Jind Distt. Jind

2. Land Acquisition Collector, (HUDA) Hissar.-- Respondents

Place;Chandigarh (SURESH AHLAWAT)

Advocate

Date :- 20.1.2004 Counsel of the appellants

ITEM NO. 8 COURT NO. 8SECTION 1V-B

**SUPREME COURT OF INDIA**

RECORD OF PROCEEDING

SPACIAL LEAVE PETITION (CIVIL) **DAIRY NO. 3802/2018**

( Arising out of impugned final judgment and order dated 22.12.2015

**In RFA no. 7234/2014** passed by the High Court of Punjab and Haryana At Chandigarh)

**ABHEY RAM AND ORS ------------- Petitioners**

**VERSUS**

**STATE OF HARYANA AND ANR. ---------- Respondents**

( IA No. 21646/2018-CONDONATION OF DELAY IN FILING and IANo. 21647/2018-EXMPTION FROM FILINF C/C OF THE IMPUGNED JUDGMENT)

WITH

Dairy No. 3007/2018 (IV-B)

( IA No. 21971/2018 -CONDONATION OF DELAY IN FILING and IA No. 21972/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 21973/2018 –PERMISSION TO FILE ADDITIONAL DOCUMENTS)

**Date :- 19.2.2018 these matters were called on for hearing today**

**CORAM**

**HONBLE MR. JUSTICE R.K. AGRAWALL**

**HONBLE MR. JUSTICE ABHAY MANOHAR SAPRE**

For Petitioner (s) Ms. Savita Devi Adv.

Ms. Mamta Rani Adv.

Mr. Vidya Vijaysinh Pawar, AOR

Mr. Jatinder Pal Singh , AOR

For Respondents(s)

UPON Hearing the counsel the Court made the following

**ORDER**

here is an inordinate delay in filing the Special Leave Petitions for which no

sufficient cause has been shown by the t Ld. Counsel for the petitioners .

Therefore, the Special leave Petitions are dismissed on the ground of delay.

Pending applications stand disposed of.

( ASHA SUNDRIYAL ) ( CHANDER BALA)

COURT MASTER COURT MASTER

**IN THE SUPREME COURT OF INDIA**

INHERENT JURISDICTION

**REVIEW PETITION** (CIVIL) NO. 3187 OF 2018 IN

SPACIAL LEAVE PETITION (CIVIL) NO. 5524 OF 2018

**ABHEY RAM AND ORS ------------- Petitioner (s)**

**VERSUS**

**STATE OF HARYANA AND ANR. ---------- Respondent (s)**

**ORDER**

Delay condoned

We have examined the grounds urged in support of the prayer for review . We find no error apparent on the face of the record to warrant recall of **our order dated 19th Feb. 2018 .** The review petition is, accordingly dismissed.

Pending applications stand disposed of.

-------------------------- J ABHAY MANOHAR SAPRE

--------------------------- j ASHOK BHUSHAN

**NEW DELHI**

**OCT. 31, 2018**

ITEM NO. 1004 SECTION IC-B

SUPREME COURT OF INDIA

RECORD OF PROCEEDING

R.P. (C) NO. 3187/2018 IN SLP ( C) no. 5524/2018

**ABHEY RAM AND ORS ------------- Petitioner (s)**

**VERSUS**

**STATE OF HARYANA AND ANR. ---------- Respondent (s)**

**Date : 31.10.2018**

HONBLE MR. JUSTICE ABHAY MANOHAR SAPR

HONBLE MR. JUSTICE ASHOK BHUSAN

By Circulation

UPON perusing papers, the court made the following

**ORDER**

Delay condoned

The review petition is dismissed in terms of the signed order.

Pending applications if any stand disposed of

( Ashok Raj singh) Court Master ( Chander Bala) Court Master

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

Ms. Jyoti (aged 20 years) d/o Sh. Surender resident of House no. 543, near U.C.O. Bank ,Julana Distt. Jind, presently student of BAMS,3rd year in MSM Institute of Ayurveda , Khanpur (Sonipat) --------------------- Petitioner

Versus

**1.** State of Haryana through itsFinancial Commissioner-cum- Principal Secretary to Government Haryana, Welfare of Scheduled Castes and Backward Classes, Department , New Secretariat Haryana, Sector 17 Chandigarh.

2. The Director-General, Welfare of Scheduled Castes and Backward Classes Department, Haryana, S.C.O. No. 42-44, Haryana, Sector 17-A Chandigarh.

3. The Registrar, BPS Mahila Vishwavidyalaya, Khanpur-Kalan-( Sonipat.)

4. Principal of MSM Institute of Ayurveda, Khanpur Kalan (Sonipat).

5. Distt. Welfare Officer , Sonipat.

-------------Respondents

Chandigarh SURESH AHLAWAT

Dated: 5. 3.2019 Advocate

Counsel for the Petitioner

CIVIL WRIT PETITION under Article 226/227 of the Constitution of India for the issuance of a writ in nature of Mandamus be issued, directing the respondents to release the Post Matric Scholarship/stipend of S.C./B.C. Cat. students to the petitioner for the session 2016-17 and 2017-2018. , in terms of the policy Annexure –P-1 .

*RESPECTFULLY SHOWETH*

**1.** **That** the petitioner is a resident of District Jind (Haryana) and as such being a citizen of India, she is fully competent to invoke the extraordinary writ jurisdiction of this Hon’ble Court under Articles 226/227 of the Constitution of India by way of the present writ petition.

**2. That**  Govt. of Haryana formulated a scheme/policy in 2010 to provide the post matric scholarship to the students belonging to the Scheduled Cast family, whose income is less then Rs. two lakh per annum. Mother of the petitioner is a laborer and her income from all source is less than Rs.88000/- per year. Father of the pet. already died than policy is squarely covered this case . A copy policy to provide the post matric scholarship is attached herewith as **Annexure P-1.**

**3. That** now petitioner is the student of BAMS 3rd year in MSM Institute of Ayurveda, Khanpur –Kalan (Sonipat) .She had enrolled in the year 2015 after passed 10+2 (Medical) class and belongs to Scheduled Cast family (S.C.) . She used to apply for the post matric scholarship every year being a Scheduled Cast student according to policy of Haryana Government. But she got only one year (1st year of BAMS) scholarship i.e Rs. 67,000- for the session 2015-16. Petitioner further applied on line for Post matric scholarship of Rs. 67,000/- for the next session 2016-17 i.e 2nd year of BAMS course and her application form was also forwarded by the college to R&S Branch of B.P.S MahilyaVishwavidyaly Khanpur vide letter no. ins/Aur/17/509 dated 7.4.2017. A copy of this letter dated 7.4.2017 is attached herewith as **Annexure P-2** .

**4. That** in the next session 2017-18 of the 3rd year of BAMS Course , petitioner further applied on line for the post matric scholarship through proper channel vide her registration no. R 172762615163 and all the application forms were forwarded to R & S Branch of the BPS MV Khanpur for further process vide letter no. MSM/Inst. Ayur/18/2889 dated 30.1.2018 after online verified by the institute . A copy of this letter dated 30.1.2018 is attached herewith as **Annexure P-3** .

**5. That** the respondents is not released for the two session post matric scholarship i.e 2016-17 and 2017-18 till date. Relatives of petitioner also met to the official of respondents and they told verbally to them that matter is under consideration .Petitioner through her college and her counsel has already submitted representations and legal notice dated 10.7.2018 to respondents. One of the copy of legal notice dated 10.7.2018 is attached herewith as **Annexure P-4.**

**6.** But official of the university replied the said notice on 10.8.2018 that Scholarship form of Ms Jyoti d/o Sh. Surender for the session 2016-17 has been forwarded to Distt. Welfare Officer Sonipat vide letter no. BPSMV/17/696 dt. 10.4.2017 (F/A) and scholarship for the session 2017-18 has been verified online and scholarship amount will be credited in student’s bank account . But respondents has not released the post matric scholarship under the Govt. Scheme for the last two years till date. Copy of reply dated 10.8.2018 of the legal notice is attached herewith as **Annexure P-5.**

**7. That** petitioner has also filed a complaint in CM Window. Nodal officer of CM Grievance Cell replied vide letter dated 27.3.2018 that yours claim is under consideration before the concerned department .

**8. That** the after waiting some time petitioner again sent the legal notice through her counsel on 15.1.2019 . Respondents again replied the said notice that matter is pending before the Distt. Welfare office Sonipat. Copies of the second legal notice dated 15.1.2019 and its rely dated 22.1.2019 are attached herewith as **Annexure P-6 and 7** respectively.

**9.** **That** father of petitioner is a laborer his income is less than 88000/- per year .It is very hard for her/him to pay full college and hostel fees every year without getting any scholarship .

**10. That** this matter has been hanging fire since then. Denial of the said benefit to the petitioner has led to a long and tortuous road to justice.

**11.** That the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

a) Whether the action of the respondents is arbitrary and discriminatory which violative of Articles 14 and 16 of the Constitution of India?

b) Whether a grave manifest injustice has been caused to the petitioner?

**12.**  That there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Articles 226/227 of the Constitution of India.

**13.** That the petitioners have not filed any such or similar writ petition previously either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents.

PRAYER

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue: -

**i) a** writ in nature of Mandamus be issued, directing the respondents to release the Post Matric Scholarship/stipend of SC/BC to the petitioner for the session 2016-17 and 2017-2018. , in terms of the policy Annexure –P-1

**ii)** Any other appropriate writ, order or direction be also issued which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case and to which the petitioner is found entitled in law justice and equity.

**iii)** Service of advance notices upon the respondent be dispensed with.

**iv)** Filing of true typed of annexures and certified copy of annexures be also dispensed with;

CHANDIGARH Through:

DATED: 5.3.2019 **(SURESH AHLAWAT)**

**ADVOCATE**

**Counsel for the petitioner.**

*VERIFICATION*

Verified that the contents of Para No. 1 to 10 and 12 to 13 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 11 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed there from.

CHANDIGARH

DATED:- 5. 3 .1.2019

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

----------- Petitioner

VERSUS

State of Haryana and others -----------Respondents

**Affidavit**

I, the above named deponent, do hereby solemnly affirm and declare as under:-

1. That the contents of paras of the petition are true and correct to my knowledge No part therein is false and nothing material has been kept concealed therein.

2. That no such or similar petition has been filed by the deponent either in this Hon’ble Court or before the Hon’ble Supreme Court of India.

CHANDIGARH

DATED:- . 2019

VERIFICATION: Verified that the contents of paras of my above affidavit are true and correct to my knowledge . No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED . .2019

**LIST OF EVENTS**

**That**  Govt. of Haryana formulated a scheme/policy to provide the post matric scholarship to the students belonging to the Scheduled Cast family, whose income is less then Rs. two lakh per annum.

**2015 That** now petitioner is the student of BAMS 3rd year in MSM Institute of Ayurveda Sonipat .She had enrolled in the year 2015 after passed 10+2 (Medical) class and belongs to Scheduled Cast family

**Session 2015-16** But she got only one year (1st year of BAMS) scholarship i.e Rs. 67,000- for the session 2015-16 Petitioner further applied on line for Post matric scholarship of Rs. 67,000/- for the next session 2016-17 i.e 2nd year of BAMS course

**Session 2017-18** of the 3rd year of BAMS Course , petitioner further applied on line for the post matric scholarship through proper channel vide her registration no. R 172762615163

**That** the respondents is not released for the two session post matric scholarship i.e 2016-17 and 2017-18 till date.

**16.7.2018** Petitioner through her counsel has already submitted the notice to respondents.

**10.8.2018**  Official of the university replied the said notice on 10.8.2018 that Scholarship form of Ms Jyoti d/o Sh. Surender for the session 2016-17 has been forwarded to Distt. Welfare Officer Sonipat vide letter no. BPSMV/17/696 dt. 10.4.2017 (F/A) and scholarship for the session 2017-18 has been verified online and scholarship amount will be credited in student’s bank account . But respondents has not released the post matric scholarship under the Govt. Scheme for the last two years till date.

**27.3.2018** petitioner has also filed a complaint in CM Window. Nodal officer of CM Grievance Cell replied vide letter dated 27.3.2018 that yours claim is under consideration before the concerned department .

**15.1.2019 That** the after waiting some time petitioner again sent the legal notice through her counsel on 15.1.2019 .

**22.1.2019** Respondents again replied the said notice that matter is pending before the Distt. Welfare Officer Sonipat.

That this matter has been hanging fire since then.

Hence this writ petition.

**Chandigarh SURESH AHLAWAT**

**Dated: 5.3.2019 Advocate**

**Counsel for the Petitioner**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

Ms Jyoti - ------------- Petitioner

VERSUS

State of Haryana and others ----------- Respondents

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr. No | Particulars | Date | Pages | Court fee |
| A | Court Fee |  |  |  |
| 1. | List of Date & Events | 5.3.2019 | 1-2 |  |
| 2. | Civil Writ Petition | 5.3.2019 | 3-8 | 50.00 |
| 3. | Affidavit in Support | .3.2019 | 9 |  |
| 4. | **ANNEXURE P-1**  (Copy of Policy) | 00.00.2010 | 10-12 | 1.95 |
| 5. | **ANNEXURE P-2** (Copy of Letter) | 7.4..2017 | 13-14 | 1.30 |
| 6. | **ANNEXURE P-3** ( Copy of Letter) | 30.1.2018 | 15 | 0.65 |
| 7. | **ANNEXURE P-4** ( Legal Notice ) | 16.7.2018 | 16-17 | 1.30 |
| 8. | **ANNEXURE P-**5 ( Reply ) | 10.8.2018 | 18 | 0.65 |
| 9 | **ANNEXURE P-**6 ( Legal Notice) | 15.1.2019 | 19-21 | 1.95 |
| 10 | **ANNEXURE P-7** ( Reply) | 22.1.2019 | 22 | 0.65 |
| 11 | **Power of Attorney** | 20.6.2018 | 23 | 2.75 |

NOTE: 61.20

1. That the main law points involved in the writ petition are contained in para no. 11 at page no.

2. Relevant Statutes/Rules:

i. The Constitution of India.

ii. Scheme of Post Matric scholarship for Sc/Bc

3 Caveat petition filled :- No.

1. Similar case if any: No

**DECLARATION**

The copies, as required by rule 16 of Chapter I Part A(a) of the Rules and Orders of Punjab and Haryana High Court, Volume-V, have been served upon----------- (the person upon whom the copies have been served)----------- at-----------(time) on-----------(date) in--------(place).

CHANDIGARH  **(SURESH AHLAWAT)**

DATED: 5.3.2019 **ADVOCATE**

**COUNSEL FOR THE PETITIONER**

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

Ms. Jyoti ----------- Petitioner

VERSUS

State of Haryana and others -----------Respondents

Court fee

CHANDIGARH  **(SURESH AHLAWAT)**

DATED: 5.3.2019 **ADVOCATE**

**COUNSEL FOR THE PETITIONER**

CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Mandamus directing to the respondents to grant the benefit of one additional increment on 1.1.2006 in the pre-revised pay scale as one time measure, in terms of letter dated 16.4.2012 issued by the Financial Department Haryana (**Annexure P-** 1) and the decision in CWP no 20812 of 2015 titled as Vimla Kumari and others versus State of Haryana **( Annexure P-2)** to the petitionersand grant them all consequential benefits along with interest @12% P.A. AND

Any other writ, order or direction, which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, may be issued in the interest of justice.

**RESPECTFULLY SHOWETH**:

**1.** That the petitioners are citizens of India and are regular working in the Higher Education Department of State of Haryana and as such are entitled to invoke extra-ordinary jurisdiction of this Hon’ble Court under Article 226 of the Constitution of India by way of present writ petition.

**2.** That the petitioners are working as regular A/Professors in Haryana Government Colleges, which they are holding and serving the department as such till date to the utmost satisfaction of the superiors with missionary zeal.

**3.** That the Haryana Government revised the pay Scale of its regular employees under the rule HARYANA CIVIL SERVISES (Revised Pay) RULE,2008, (hereinafter referred to as Revised Pay Rules). The Revised Pay Rule come in to force on 1st of January .2006. That the pay of all the petitioners has been revised as per the Revised Pay Rules w.e.f. 1st januray.2006.

**4.** That as per Rule 10 of the Revised Pay Rules,2008 the date of next increment in the revised pay structure has been prescribed. The Rule 10 of the Revised Pay Rules reads as under:-

**10. Date of next increment in the revised pay structure:**

**“**There will be a uniform date of annual increment, viz. 1st July of every year. Employees completing 6 months and above in the revised pay structure as on 1st of July will be eligible to the grant of the increment. The first increment after fixation of pay on 1.1.2006 in the revised pay structure will be granted on 1.7.2006 for those employees also for whom the date of next increment was between 1st July, 2006 to 1st January, 2007”.

Provided that in case of persons who had been drawing maximum of the existing scale for more than a year as on the 1st day of January 2006, the next increment in the revised pay structure shall be allowed on the 1st day of January, 2006. Thereafter, the provision of Rule 10 would apply.

Provided further that in cases where an employee reaches the maximum so if his pay band, shall be placed in the next higher pay band after one year of reaching such a maximum. At the time of placement in the higher pay band, benefit of one increment will be provided. Thereafter, he will continue to move in the higher pay band till his pay in the pay band reached the maximum of PB-4, after which no further increments will be granted.”

**5.** That a perusal of Rule 10 for grant of increments shows that the uniform date of increment is 1st July every year and an employee is eligible for next increment after completing 6 months and above in the Revised Pay Structure as on 1st July.

**6.** That the petitioners are those persons whose date of increment was due in the span of 1st Feb. 2006 to 30th June, 2006, as they have completed a period of 12 months from the date of last increment. These petitioners have been granted next increment only on 01.07.2006 and as such the span of increment has been extended from 12 months to 13-17 months. A detail of increments due date, increments granted on and the gap after which the increment has been granted to each of the petitioner is given below:-

**“PARTICULARS OF INCREMENT”**

**Sr. No. Name of the Annual increment Annual increment Annual**

Petitioner due date given on granted after delay of

-----------------------------------------------------------------------------------------------------

1. Ruchira Khullar Feb.2006 1.7.2006 17 months

2. Dr. Ramesh K. Mehra Feb. 2006 1.7.2006 17 Months

3. Sube Singh March-2006 1.7.2006 16 months

4. Dr. Balwinder March-2006 1.7.2006 16 months

A perusal of the aforesaid table would show that increment of petitioner at Sr.no.1 has been released after 17 months and petitioner at Sr. no. 3 after 16 months. The total span on period is more than 12 months in each case. As a consequence, the additional period of service beyond the period of one year has been washed away which is impermissible in law. According to the petitioners, it has cause them permanent recurring loss of delayed increment.

In this way, if the aforesaid course is permitted then junior would start getting more pay than their senior counterparts in the same cadre, which is impermissible and it violate Articles 14 and 16(1) of the Constitution. The petitioners have also asserted that classification of employees by fixing the date of increment as 1st of July would result into hostile discrimination as if bifurcate a uniform class of employees working in one service and in one cadre.

**7.** That due to the change of date of Increment and the period more than 12 months an anomaly has been created in the Rule 10 of the Revised Pay Rules concerning the present petitioners. The petitioners and a large number of persons similarly situated to the petitioners have suffered permanent recurring loss of delayed increments due to Rule 10 of the Revised Pay Rules.

**8.** That a perusal of Rule 10 shows that after fixation of pay on 01.01.2006 in the Revised Pay Structure the first increment has been granted on 01.07.2006 to those employees for whom the date of next increment was between 1st July, 2006 to 1st January, 2007, meaning thereby that all those employees who were to get the next increment between 1st July, 2006 to January, 2007 their date of increment has been advanced and they have been granted benefit of annual increment for a period of less than 12 months, e.g. the person whose next date of increment was 1st August, 2006 has been granted increment on 1st July, 2006 i.e. after a period of 11 months; for 1st September, 2006 after a period of 10 months; for 1st October, 2006 after a period of 9 months, for 1st November, 2006 after a period of 8 months; for 1st December, 2006 after a period of 7 months and for 1st January, 2007 after a period of six months.

**9.** That the present petitioners have been put into disadvantageous position by Rule 10 of Revised Pay Rules as against the employees who have been granted advance increments before completion of 12 months period, the present petitioners have been granted benefits after completing more than 12 months i.e. 13-17 months, e.g. the person whose next date of increment was 1st February, 2006 has been granted increment on 1st July, 2006 i.e. after a period of 17 months; for 1st March, 2006 after a period of 15 months; for 1st May, 2006 after a period of 14 months and for 1st June, 2006 after a period of 13 months, which is discriminatory and against the provisions of Article 14 & 16 of the Constitution of India.

**10.** That the anomaly of grant of advance increment to the employees whose date of next increment falls between 01.07.2006 to 01.01.2007 and delayed increments to the employees whose date of next increment falls between 01.01.2006 to 01.07.2006 has created difference in the pay of senior and junior and as such further anomaly between junior and senior employees has cropped up giving further rise to legal battles.

**11.** That there is no reasonable basis of discrimination while creating classification. Once the two categories of employees have been identified and classified any subsequent discrimination with respect to grant of benefit of increments in advance to achieve the object of uniform date of increment amongst the two categories is totally violative of Article 16(1) of the Constitution of India. The action of the respondents is without any reasonable ground for differentiation.

**12.** That some effected employees of Haryana Govt. challenged the said action of the respondents before this Hon.ble Court through writ petition no .16975 0f 2010 for quashing the Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires, discriminatory and disadvantageous to the petitioners than, Hon,ble Division Bench allowed the said writ petition on dated 20.7.2011 and set-aside the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires of Article 14 of the Constitution in respect of those employees who earn their increment between 1st of January to 30th of June.

**13.** That in compliance of the said order of the Hon,ble High Court, Finance Department Haryana i.e. respondent no.1 issued the Notification/Letter dated 16.4.2012 and relaxed the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 and decided that those State Govt. Employees who were due to get their annual increment between February to June,2006 may be granted one increment on 1.1.2006 in the pre revise pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 and pay of the eligible employee be re-fixed accordingly. Notification/Letter dated 16.4.2012 is being attached herewith as **ANNEXURE P-1**.

**14.** That after issuance of the letter dated 16.4.2012 by the Finance department Haryana, has been implemented and anomaly created by Rule 10 removed in all Govt. departments for its regular employees and also implemented all the Universities i.e M.D.Univrsity Rohtak Kurukshetra University and H.A.U. Hissar for the staff of teaching and non-teaching. But in the case of the Govt.College teachers like petitioners, same was not implemented till date.

**15.** That the petitioners are the regular employees of the Haryana Govt. and according to the appointment letters ,terms and conditions , it has been clearly explained that in all the mattes he /she will be governed by the Punjab Civil Services Rule as applicable to Haryana Government employee and such orders and instructions as may be issued by the Government from time to time. However , the State Government has been issued the letter dated 16.4.2012 (Annexure P-1) but even thereafter, respondents are not implementing the said letter.

**16.** That some of the A/Professors of Govt. Colleges approached this Hon’ble High Court by filing the CWP no 20812 of 2015 titled as Vimla Kumari and others v/s State of Haryana directed to respondents to grant the benefit of one additional increment vide letter date 16.4.2012 issued by the Finance department Haryana on 25.7.2017. Hon’ble High Court allowed this writ petition with cost and directed to respondents to grant the said benefit within three months and now this judgment has been fully complianced . A Copy of the said judgment dt. 25.7.2017 is being attached herewith as **ANNEXURE P-2**

**17 .** That the petitioners represented to the respondents through Principal of the College to grant the same benefit but the respondents granted the said benefit only those persons who approached this Hon’ble High Court, than lastly petitioners also approached to the respondents to grant the same benefit by serving the legal notice dated 20.3.2019 through their counsel but respondents did not considered this genuine demand and compelled to the petitioners to approached this Hon’ble Court for filing this writ petition. A Copy of the legal notice dt. 20.3.2019 is being attached herewith as **ANNEXURE P-3.**

It is a settled principle of law settled by the Division Bench of this Court in case 'Satbir Singh Vs. State of Haryana, 2002(2) S.C.T. 354 wherein a Division Bench of this Court has held that when the judgment attain finality, duty is casted upon the State to grant relief to all the similarly situated employees. It is not necessary for the State to require each one of its employees to approach the Courts of law for the grant of a relief which the State ought to grant the employees in normal course of its administration .

**18**. That the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

1. Where the Rule 10 of the Revised pay Rules is discriminatory and violative of Article 14 & 16 of the Constitution of India.
2. Whether the letter dated 16.4.2012 (Annexure P-2) issued by the Finance Department Haryana is applicable to the claim of the petitioners ?
3. Whether a grave manifest injustice has been caused to the petitioner?

**19.**  That there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Article 226 of the Constitution of India.

**20.**  That the petitioner has not so far filed any such or similar writ petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents.

PRAYER :-

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue:

i) writ in the nature of Mandamus directing to the respondents to grant the benefit of one additional increment on 1.1.2006, in the pre-revised pay scale, as one time measure in terms of letter dated 16.4.2012 issued by the Financial Department Haryana (**Annexure P-** **1)** and further decision in C.W.P. no 20812 of 2015 titled as Vimla Kumari and others versus State of Haryana **( Annexure P-2)** to the petitionersand grant them all consequential benefits along with interest @12% P.A. AND ii) Any other appropriate writ, order or direction be also issued which this Hon’ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case and to which the petitioner is found entitled in law justice and equity.

iv) Filing of true typed copies of Annexures be also dispensed with;

Place:

DATED: (SURESH AHLAWAT) ADVOCATE

Counsel for the petitioners.

*VERIFICATION*

Verified that the contents of Para No. 1 to 17 and 19 to 20 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 18 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed there from.

Place

Date LIST **OF DATES & EVENTS**

That the petitioners are working as regular A/ Professors in deferent Haryana Government Colleges.

**2008**  That the recommendations of the 6th Central Pay Commission, it was suggested that in the revised scheme, the date of annual grade increment should be 1st of July every year. In other words, those employees who have completed six months and above in the scale, on 1st of July, were to be eligible to earn increments. In this way, Haryana Government revised the pay Scale of its Govt regular employees under the rule HARYANA CIVIL SERVISES (Revised Pay) RULE,2008,(hereinafter referred to as Revised Pay Rules). The Revised Pay Rule come in to force on 1st of January .2006.

Accordingly, the pay of the petitioners was revised in accordance with the 2008 Rules w.e.f. 1.1.2006. In order to achieve uniformity in the date of granting annual grade increment, Rule 10 in the 2008 has been formulated.

That the petitioners are those persons whose date of increment was due in the span of 1st January, 2006 to 30th June, 2006, as they have completed a period of 12 months from the date of last increment. These petitioners have been granted next increment only on 01.07.2006 and as such the span of increment has been extended from 12 months to 17 months. That due to the change of Date of Increment and the period more than 12 months an anomaly has been created in the Rule 10 of the Revised Pay Rules concerning the present petitioners. The petitioners and a large number of persons similarly situated to the petitioners have suffered permanent recurring loss of delayed increments . That the present petitioners have been put into disadvantageous position by Rule 10 of Revised Pay Rules as against the employees who have been granted advance increments before completion of 12 months period, the present petitioners have been granted benefits after completing more than 12 months i.e. 13-17 months, e.g. the person whose next date of increment was 1st February, 2006 has been granted increment on 1st July, 2006 i.e. after a period of 17 months; for 1st March, 2006 after a period of 15 months; for 1st May, 2006 after a period of 14 months and for 1st June, 2006 after a period of 13 months, which is discriminatory and against the provisions of Article 14 & 16 of the Constitution of India.

**20.7.2011** That some effected employees of Haryana Govt. challenged the said action of the respondents before this Hon.ble Court through writ petition no .16975 0f 2010 for quashing the Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires, discriminatory and disadvantageous to the petitioners than, Hon,ble Division Bench allowed the said writ petition on dated 20.7.2011 and quashed the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 being ultra vires of Article 14 of the Constitution in respect of those employees who earn their increment between 1st of January to 30th of June.

**16.4.2012** That in compliance of the said order of the Hon,ble High Court, Finance Department Haryana i.e. respondent no.1 issued the Notification/Letter dated 16.4.2012 and relaxed the said Rule 10 of the Haryana Civil Services ( Revised Pay) Rules,2008 and decided that those State Govt. Employees who were due to get their annual increment between February to June,2006 may be granted one increment on 1.1.2006 in the pre revise pay scale as a one time measure and thereafter will get the next increment in the revised pay structure on 1.7.2006 and pay of the eligible employee be re-fixed accordingly.

That after issuance of the letter dated 16.4.2012 by the Finance department Haryana, has been implemented and anomaly created by Rule 10 removed in all Govt. departments for its regular employees and also implemented all the Universities i.e M.D.Univrsity Rohtak Kurukshetra University and H.A.U. Hissar for the staff of teaching and non-teaching. But in the case of the Govt. College teachers like petitioners, same was not implemented till date.

**25.7.2017** That some of the A/Professors of Govt. Colleges approached this Hon’ble High Court by filing the CWP no 20812 of 2015 titled as Vimla Kumari and others v/s State of Haryana directed to respondents to grant the benefit of one additional increment in accordance of the letter dated 16.4.2012 issued by the Finance department Haryana, same was allowed on 25.7.2017 with cost. (Annexure P-2) Where as, this benift is not granted to the petitioners and legal Notice of the petitioners is pending.

Hence the present writ petition.

DATED: 23.4.2019 (SURESH AHLAWAT) CHANDIGARH ADVOCATE

Counsel for the Petitioners.

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

Sube Singh and Others ----------- Petitioners

VERSUS

State of Haryana and others -----------Respondents

**Affidavit**

Dr. Balwinder Singh s/o Sh. Harbans Singh resident of House No. 1365, Sector-10 (HUDA) Ambala City.

I, the above named deponent, do hereby solemnly affirm and declare as under:-

1. That the contents of paras of the petition are true and correct to my knowledge No part therein is false and nothing material has been kept concealed therein.

2. That no such or similar petition has been filed by the deponent either in this Hon’ble Court or before the Hon’ble Supreme Court of India.

CHANDIGARH

DATED:- 23.4.2019

VERIFICATION: Verified that the contents of paras of my above affidavit are true and correct to my knowledge . No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED 23 . 4 .2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. OF 2019

Sube Singh and others ----------------Petitioners

Versus

State of Haryana. and Others. -------------------Respondents

*TOTAL AMOUNT OF COURT FEE AFFIXED*

CHANDIGARH (SURESH AHLAWAT)

P/370/1994

DATED : 23. 4.2019 COUNSEL FOR THE PETITIONERS

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

C.W.P. No.\_\_\_\_\_\_\_\_\_ of 2019

Sube Singh and others ------ ----- Petitioners

VERSUS

State of Haryana and others ------ --- Respondents

INDEX

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Particulars | Date | Page No. |
|  | List of Date and Events | 23.4.2019 | 1-3 |
|  | Civil Writ Petition | 23.4.2019 | 4-14 |
|  | Affidavit | .4.2019 | 15 |
|  | Annexure P-1  F.D.Letter | 16.4.2012 | 16-18 |
|  | Annexure P-2  (High Court Order) | 20.7.2011 | 19-21 |
|  | Annexure P-3   (Legal Notice) | 20.3.2019 | 22-28 |
| 7 | Power of Attorney |  | 29 |

Note: 1. The main law points involved in this writ petition are contained in para and page no.

2. Status Rule under Articles 226/227 of Constitution of India and Haryana Civil Services (Revised Pay) Rule-2008

3. Similar case if any: **CWP No. 20812 of 2015 titles as Vimla Kumari and others v/s State of Haryana ,in this case same controversy already decided. ( Annexue P-3)**

4. Caveat Petition If any: Nil

**DECLARATION**

The copies, as required by rule 16 of Chapter I Part A(a) of the Rules and Orders of Punjab and Haryana High Court, Volume-V, have been served upon----------- (the person upon whom the copies have been served)----------- at-----------(time) on-----------(date) in--------(place).

CHANDIGARH (SURESH AHLAWAT)

DATED: 2.9.2015 ADVOCATE

COUNSEL FOR THE PETITIONERS

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

C.W.P. No.\_\_\_\_\_\_\_\_\_ of 2019

1. Sube Singh (age 46 years) s/o Sh. Ganga Ram A/Professor, presently posted at Govt. College for Woman- Badhra Distt. Ch. Dadri House No. 2263, Sector-13 (HUDA) Bhiwani

**2.** Balwinder Singh (age 57 years) S/o Sh. Harbans Singh A/Professor, presently posted at Govt. College, Ambala Cantt., resident of H.No. 1062 Sector-16, Ambala City.

3. Ruchira Khullar (age 50 years) d/o Sh. D.R. Khullar A/Professor ,presently posted at Pt. J.L.N.Govt. College, Faridabad. resident of H.No. 1150 Sector-16, Faridabad

4.Dr. Ramesh Kumar Mehra (Age 57) s/o Sh. Banwari Lal A/professor Presently posted at Govt. College Ambala Cantt. House No. 161 Sector-1, Ambala City. ------------------Petitioners

**VERSUS**

**1.** State of Haryana through its Financial Commissioner -cum- Principal Secretary, Finance Department, Civil Secretariat, Chandigarh.

**2.** State of Haryana through its Financial Commissioner -cum- Principal Secretary, Department of Higher Education, Civil Secretariat Sector-17, Chandigarh.

**3.** Director-General, Department of Higher Education Haryana, Siksha Sadan Sector-5, Panchkula. -------------------- Respondents

CHANDIGARH (SURESH AHLAWAT)

DATE:- ADVOCATE

COUNSEL FOR THE PETITIONERS

SURESH AHLAWAT OFFICE –CUM-RESIDENCE

ADVOCATE # 413 SECTOR-11

Pb& Har. High Court Panchkula.

Chandigarh Mob. No. 94171-11917

Dated:-

**1.** Financial Commissioner -cum- Principal Secretary, Finance Department, Civil Secretariat, Chandigarh.

**2.** Financial Commissioner -cum- Principal Secretary, Department of Higher Education, Civil Secretariat Sector-17, Chandigarh.

**3.** Director-General, Department of Higher Education Haryana, Siksha Sadan Sector-5, Panchkula.

**Sub:** To grant the benefit of letter dated 16.4.2012 issued by the F.D.Haryana to my clients and thereby grant them **one additional increment on 1.1.2006** in the pre-revised pay scale as one time measure and grant them all consequential benefits viz., arrears etc. with interest @ 12 P.A. in terms of Hon’ble Punjab and Hryana High Court order passed in **CWP No.20812 0f 2015 titled as Vimla Kumari and Others v/s State of Haryana**

**Respected Sir,**

I have been instructed on behalf of my clients namely:-

1. **Sube Singh** s/o Sh. Ganga Ram A/Professor, presently posted at Govt. College for Woman- Badhra Distt. Ch. Dadri House No. 2263, Sector-13 (HUDA) Bhiwani

**2.** **Balwinder Singh** S/o Sh. Harbans Singh A/Professor, presently posted at Govt. College, Ambala Cantt., resident of H.No. 1062 Sector-16, Ambala City.

3. **Ruchira Khullar** d/o Sh. D.R. Khullar A/Professor ,presently posted at Pt. J.L.N.Govt. College, Faridabad. resident of H.No. 1150 Sector-16, Faridabad

4. **Dr. Ramesh Kumar Mehra** s/o Sh. Banwari Lal A/professor Presently posted at Govt. College Ambala Cantt. House No. 161 Sector-1, Ambala City.

to serve upon you the following legal notice-cum –final demand –notice of Civil Writ Petition for the redressal of grievances of my clients.

* 1. **That** the my clients are working as regular A/Professors in Haryana Govt. Colleges which they are holding and serving the department as such till date to the utmost satisfaction of the superiors with missionary zeal.

1. That the recommendations of the 6th Central Pay Commission, it was suggested that in the revised scheme, the date of annual grade increment should be 1st of July every year. In other words, those employees who have completed six months and above in the scale, on 1st of July, were to be eligible to earn increments. In this way, Haryana Government revised the pay Scale of its Govt regular employees under the rule HARYANA CIVIL SERVISES (Revised Pay) RULE,2008,(hereinafter referred to as Revised Pay Rules). The Revised Pay Rule come in to force on 1st of January .2006.
2. Accordingly, the pay of the my clients was revised in accordance with the 2008 Rules w.e.f. 1.1.2006. In order to achieve uniformity in the date of granting annual grade increment, Rule 10 in the 2008 has been formulated.
3. That the my clients are those persons whose date of increment was due in the span of 1st Feb. 2006 to 30th June, 2006, as they have completed a period of 12 months from the date of last increment. These persons have been granted next increment only on 01.07.2006 and as such the span of increment has been extended from 12 months to 13-17 months. A detail of increments due date, increments granted on and the gap after which the increment has been granted to each of the petitioner is given below:-
4. **“PARTICULARS OF INCREMENT”**

**Sr. No. Name of the Annual increment Annual increment Annual**

Petitioner due date given on granted after delay of

-----------------------------------------------------------------------------------------------------

1. Ruchira Khullar Feb.2006 1.7.2006 17 months

2. Dr. Ramesh K. Mehra Feb. 2006 1.7.2006 17 Months

3. Sube Singh March-2006 1.7.2006 16 months

4. Dr. Balwinder March-2006 1.7.2006 16 months

A perusal of the aforesaid table would show that increment of my client at Sr.no.1 has been released after 17 months and my client at Sr. no. 3 after 16 months. The total span on period is more than 12 months in each case. As a consequence, the additional period of service beyond the period of one year has been washed away which is impermissible in law. According to the my clients , it has cause them permanent recurring loss of delayed increment.

To,

1. The Additional Chief Secretary, Urban Estate Department

Sector-17, Haryana Civil Secretariat, Chandigarh.

2. Director, Urban Development Department Haryana, Sector -6 Panchkula

3. Land Acquisition Collector, Urban Estate Department, Haryana

Hissar.

**Subject:** For release of land situated at Safidon Tehsil Safidon District Jind, measuring 4 kanals, 09 marlas.

1. That the land of 4 kanlas 9 marlas of the applicants (land No.01) 7/50 equal share 2 kanal 02 marla in Khewat No. 67, Khata No. 163, Rect No. 7, Killa No. 5/2/1/2 (0-7), 6/2(1-16), 7/2(8-2), 14(5-7) total 15 kanal 5 marlas and (land No.2) share of applicants 7/50 share 02 kanals 07 marlas in Khewat No. 67 Khata No. 172, Rect No. 07, Killa No. 27 (16-14) revenue estate village Singhpura Tehsil Safidon District Jind, Sector 7, (HUDA) vide notification u/s 4 of LAC 1894 dated 23.08.2007 has been acquired.

2. That vide notification under Section 4 dated 23.08.2007 the State of Haryana proposed to acquired 142 acre of land in Safidon District Jind for development of residential and commercial Sector 7 Safidon. After considering the objections submitted by the land owners, the land measuring 74.10 acres only was decided to be acquired while issuing notification u/s 6 of the LAC Act, which includes about 4 acres of land owned by the applicants as well.

It is also conceded position that out of 74.10 acres acquired land, 67.90 acres land has since been released giving rise to these proceedings essentially on the ground of hostile discrimination.

3. That the some co-sharer in the Khewat of the applicants Sh. Shiv Kumar and Sh. Prem Kumar filed the CWP No. 18678 of 2011 titled as “**Shiv Kumar and another Vs. State of Haryana”** before the Punjab and Haryana High Court, to released their land about 10 Kanals 6 Marlas than Hon’ble high Court vide order dated 10.07.2013 released the said land. Now acquired land in Sector 07 is remained about 6-7 acres.

4. That it is also relevant to mentioned here that adjoining vacant land in Killa No. 15 owned by some similarly situated persons have already been released by the HUDA Authorities and one entire block has been released from the acquisition proceedings.

5. That the applicants also raised the objections that the land owned by them is situated in thickly populated area and is already fully developed, perhaps so much developed as HUDA may not possibly able to develop. The applicants are already doing a lot for the furtherance of the cause for which the land is being acquired. There shall be hardly any justification in acquisition of the land for the alleged purpose of development of the area for the residential purpose. Moreover, the land/plots owned by various similarly situated person surrounding to the land of the applicants have already been released and even one entire block has already been released, whereas the case of the applicants is also similarly situated and can be taken into consideration for releasing the land/ plots of the applicants.

6. That as already submitted the HUDA Authority have released the land of certain persons, who were similarly situated to the applicants. Moreover the land of the person who have raided construction after the issuance of Section 4 Notifications also stands released, as is apparent from the facts referred to above. The impugned action of the State Government in question of the land in question has been exercised in a colourable fashion and is based ulterior motive and malafide intention. Two equals have been treated unequally in the impugned acquisition proceedings.

In the present case, the applicants would suffer an irreparable loss, harm and damage if their land/plots is not released. Therefore the acquisition is totally illegal, arbitrary, unconstitutional and irregular and is directly hit by Article 14 of the Constitution of India.

7. That the applicants has been personally approaching your good offices in the matter times and again and they had even given the assurance that the land of the applicants would also be released, but so far no action has been taken and rather, the applicants have been threatened with dispossession from the land in question.

It is therefore humbly prayed to your good office to kindly look into the matter considering the facts and circumstances of the case as well as of the applicants with soft approach towards the applicants by way of striking down the declaration under Sections 4 and 6 Notification of LAC Act-1894.

Prayed Accordingly

Applicants

1. Rajiv 2. Jag Mohan sons of Late Sh. Bhagat Ram Now resident of House No. 1010 Sector-7-C Faridabad.

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

C.W.P. No.\_\_\_\_\_\_\_\_\_ of 2019

Roshni Devi, aged about 42 years , daughter of Inderjeet, V.P.O. Ghursal Tehsil- Balsamand, Distt. Hissar, Haryana, presently working as Assistant Sub Inspector (A.S.I.)in Haryana Police at Police Station – Badli Distt. Jhajjar, Haryana.

------------------Petitioner

**VERSUS**

1. State of Haryana through its Secretary, Home Department, Haryana Civil Secretariat, Chandigarh.
2. Inspector-General of Police, Rohtak Range, Rohtak, Haryana
3. Director-General, of Police (Haryana) ,CPO , Sector-6. Panchkula
4. Sr. Superintendent of Police . Jhajjat ,Haryana

-------------------- Respondents

CHANDIGARH (SURESH AHLAWAT)

DATE:-8.9.2019 ADVOCATE

COUNSEL FOR THE PETITIONER

CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned reversion order dated 6.7.2019 **Annexure P-7**( from the rank of Assistant Sub Inspector to Head Constable ) passed by the Respondent no.3 being illegal, unjust, unwarranted and contrary to law that once on the same set of allegations, major punishment were already awarded vide order dated 22.2.2019 **(Annexure P-4)** on the same allegations, no departmental proceeding is permissible to initiate against the petitioner therefore, impugned reversion order dated 6.7.2019 (Annexure P-7) and show cause notice dated 13.5.2019 (Annexure P-4) are without jurisdiction and liable to be quashed .

Further a writ in the nature of Mandamus, directing to the respondents to treat the petitioner as Assistant Sub Inspector (ASI) for all purposes and intents by ignoring the impugned reversion order dated 5.7.2019 **(Annexure P-7)**

Any other writ, order or direction, which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, may be issued in the interest of justice.

**RESPECTFULLY SHOWETH**:

**1.** That the petitioner is citizens of India and is regular working in the Department of Police ,Haryana and as such she is entitled to invoke extra-ordinary jurisdiction of this Hon’ble Court under Article 226/227 of the Constitution of India by way of present writ petition.

**2.** **That** the petitioner had initially joined the Haryana Police as a Lady Constable on 10.10.2013. Thereafter she was promoted to Head Constable in the year 2014 further promoted to ASI vide order dated 2.7.2018 w.e.f. 1.2.2018 after clearing all the requisite examinations/formalities.

**3. That** on 22.9.2017 ,an FIR No. 548 , U/S 376,506 of IPC at Police Station Sadar Bahadurgarh ( Distt. Jhjjar) got lodged by one complainant by name of Shilpi Choudhary against accused Anil Dahiya . The petitioner was neither the Investigation Officer, nor the member of the investigation team in the said case on any manner.

**4. That** nevertheless , the complainant Shilpi Chaudharri on 10.10.2017 filed a complaint before the higher authority of the Police Department against the petitioner, Head Constable Rajesh and Constable Poonam, on the allegation that the complainant was being pressurized by these police officials to reach a compromise with the accused . The allegations in the said complaint against the petitioner were absolutely false.

**5. That** the respondent no.4 Superintendent of Police , Jhajjar . vide its order dated 21.10.2017 , suspended the petitioner and two other delinquents and ordered the preliminary departmental inquiry against them to be conducted by D.S.P. Jhajjat. Thereafter , respondent no. 4 the S.P. Jhajjar vide its order dated 16.11.2017 , reinstated all the three delinquents including petitioner in pending inquiry . An enquiry was held by the D.S.P. on the said complaint and vide enquiry report dated 20.4.2018 , they were found guilty but it was wrongly concluded that the petitioner along with HC Rajesh and L/C Poonam were pressurizing the complainant to compromise/settle the matter with the accused in FIR no. 548 dated 22.9.2017 under sections 376, 506 IPC.

6 That pursuant to the domestic enquiry, the petitioner was given a show- cause notice on 2.5.2018 by the respondent no.4 i.e S.P. Jhajjar , as to why the major penalty of stoppage of five annual increments with permanent effect be not imposed on her. But other person HC Rajesh and L/C Poonam was not given any notice . A copy of the show –cause notice dated 2.5.2018 is annexed herewith as **Annexure P-1.**

1. That the petitioner appeared before the punishing authority i.e. respondent no.3 in pursuance to the show-cause notice dated 2.5.2018 and explained her stand orally as well as in writing in detail. The petitioner explained that she was never the member of the investigation team in the said FIR at all , and that there was no question of her ever pressurizing the complainant for compromise in the matter . On hearing the petitioner , punishing authority the respondent no.4 i.e .S.P. Jhajjar came to the correct conclusion **that the allegations against the petitioner as well as other constables , were not proved and the departmental enquiry against the petitioner was filed.** A copy of the said order dated 19.6.2018 is annexed herewith as **Annexure P-2.**
2. That after the closer/file (dated 19.6.2018) of the departmental enquiry against the petitioner , since there were no departmental cases pending against her and petitioner met all other criteria, she was promoted as Assistant Sub Inspector.( A.S.I. ) vide order dated 2.7.2018 w.e.f 1.2.2018.
3. That however, more than 6 months after the closing/filing order dated 19.6.2018 of the departmental inquiry , passed by the punishing authority i.e. respondent no. 4 the Superintendent of Police –Jhjjar , the respondent no 3 Inspector General of Police ( IGP) Rohtak Rang, completely unknown reasons, decided to issue a disagreement note by exercise of powers conferred under Punjab Police Service Rule ( PPR) 16.28 ( as applicable in Haryana) and issue the show –cause notice dated 10.1.2019 to the petitioner . In the said disagreement note , the respondents no.3 ( IGP) without even hearing the petitioner , pre decided that the petitioner was guilty of grave misconduct in pressurizing the complainant in the FIR no. 548 u/s 376,506 IPC Police Station Sadar Bahadurgarh. . As per the disagreement note, the petitioner was yet again served with a show-cause notice, as to why a punishment of stoppage of 2 annual increments with future effect be not levied on the petitioner. A copy of disagreement note dated 10.1.2019 is annexed here with as **ANNEXURE P-3.**
4. That following the suo-moto disagreement note which had already pre-decided the issue against the petitioner , the respondent no.3 then passed the order dated 22.2.2019 vide this non-speaking order, a penalty of stoppage of two annual increments with further effect was levied on the petitioner. A copy of order dated 22.2.2019 is annexed here with as **ANNEXURE P-4.**
5. That against the illegal and incorrect order dated 22.2.2019 ,the petitioner has already filed her departmental appeal in the month of April-2019 to the Director-General of Police (DGP). Haryana i.e. Respondent no.2 which is still pending.
6. That the appeal against the order dated 22.2.2019 to stopped the two annual increments with permanent cumulative effect is still pending .before the DGP, Haryana. However , now the petitioner has been served the show-cause notice dated 13.5.2019 (to revert the petitioner from the post of ASI to Head Constable ) by the respondents no.3 on the same set of allegations in which petitioner is already suffering the major punishment imposed her . It is has been stated that she is not entitled to be promoted as ASI w.e.f 1.2.2018 . The show-cause thus seeks to revert the petitioner to the post of Head Constable , by erroneously concluding that the penalty order dated 22.2.2019 has a retrospective effect. Than petitioner gave its reply to the respondent no.4 i.e. SSP Jhajjar. Copies of the show-cause notice dated 13.5.2019 and its reply dated nil are annexed herewith as **ANNEXURE P-5 and P-6 respectively.**
7. That finally respondents not considered the reply of the show cause notice and passed the reversion order dated 6.7.2019 against the petitioner from the post of ASI to Head Constable. A copy of impugned reversion order dated 6.7.2019 is annexed here with as **ANNEXURE P-7.**
8. That the petitioner has thus approached this Hon’ble Court for quashing the impugned reversion order dated 6.7.2019 sent by the respondent no. 3 and 4 and staying its operation till the pendency of the instant writ petition ,inter-alia, on the following grounds:-
9. That on the date of promotion as Assistant Sub Inspector (ASI) from the post of head constable i.e. 1.2.2018 there was no punishment rather there was pending departmental inquiry and she was rightly promoted as Assistant Sub Inspector ( ASI) . Subsequently vide order dated 22.2..2019 ( Annexure P-4) punishment of stoppage of two annual increments with permanent effect has been passed . That order cannot take way the right of promotion by applying retrospective effect of punishment awarded on 22.2.2019 therefore the impugned reversion order dated 6.7.2019 Annexure P-7 is liable to be set-side .
10. That the impugned reversion order dated 6.7.2019 is also suffer for the reason that against the same misconduct, WHEN the order dated 22.2.2019 punishment of two annual increments with permanent effect has been passed on basis of misconduct of the petitioner than (same) respondents canot be passed the reversion order dated 6.7.2019 on same misconduct . It would be tantamount the double jeopardy, which is hit **Article 20 (2) of the Constitution of India,that No person shall be prosecuted and punished for the same offence more than once.**

C. That further still , in the FIR no. 548, u/s 376.506 dated 22.9.2017 Police Station Sadar Bahadurgarh( Jhajjar) filled by the complainant Shilpi Chaudhary, the accused in that case has gotten bail from this Hon’ble Court on the basis of the fact that the victim has turned hostile , not supported the prosecution and the version of the accused has been that he has been in consensual relationship with the victim. A copy of bail order passed by this Hon’ble High Court on 31.5.2018 is annexed here with as **ANNEXURE P-8.**

1. **That** finally, the reversion order is also discriminatory in nature , as there were 3 persons who were initially not found guily vide order dated 19.6.2018 ( Annexure P-2) . However , subsequent action was taken only against the petitioner and the show-cause notice has been sent only to the petitioner.

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

1. Whether the action of the respondents is totally illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India?
2. Whether in the facts and circumstances of the case , the impugned reversion order dated 6.7.2019 seeks to impose a retrospective dual punishment on the petitioner .

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

**14.** **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 except CWP no. 14944 of 2019 .

**15.** 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 statutory appeal or revision is available to the petitioner against the impugned reversion order which is passed without jurisdiction.

**16.** 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:-

1. a writ in the nature of Certiorari for quashing the impugned reversion order dated 6.7.2019 Annexure P-7 ( from the rank of Assistant Sub Inspector to Head Constable ) passed by the Respondent no.3 being illegal, unjust, unwarranted and contrary to law that once on the same set of allegations, major punishment were already awarded vide order dated 22.2.2019 **(Annexure P-3)** on the same allegations, no departmental proceeding is permissible to initiate against the petitioner therefore, impugned reversion order dated 5.7.2019 (Annexure P-7) and show cause notice dated 13.5.2019 (Annexure P-4) are without jurisdiction and liable to be quashed .
2. Further a writ in the nature of Mandamus, directing to the respondents to treat the petitioner as Assistant Sub Inspector (ASI) for all purposes and intents by ignoring the impugned reversion order dated 5.7.2019 **(Annexure P-7)**
3. 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.
4. 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.

It is further prayed that during the pendency of this writ petition in this Hon’ble Court, operation of the impugned reversion order Annexure P-7 be stayed and the petitioner be allowed to continue to work on the post of Assistant Sub Inspector in the interest of justice and equity.

CHANDIGARH

DATED: . .2018

THROUGH COUNSEL

(SURESH AHLAWAT )

ADVOCATE

**VERIFICATION:**

Verified that the contents of above writ petition from para no.1 to 12 & 14 to 16 are true and correct to my knowledge and those of para no. 13 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: 8.7.2019

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND

HARYANA AT CHANDIGARH

CWP No. \_\_\_\_\_\_\_\_\_ of 2019

Roshni Devi --------------Petitioner

VERSUS

State of Haryana and Others -------------- Respondents

Affidavit of Roshni Devi, aged about 42 years , daughter of Inderjeet, presently working as Assistant Sub Inspector (A.S.I.)in Haryana Police at Police Station – Badli Distt. Jhajjar, Haryana.

I, the above named deponent do, hereby solemnly affirm and declare as under:-

1. That the deponent is filing the accompanying writ petition, the contents of which may also be treated as a part of this affidavit.

2. That the deponent is competent to file this affidavit and is well conversant with the facts and circumstances of the case. The averments made in the present writ petition are true and correct to my knowledge. No part of it is false and nothing material has been kept concealed therein.

CHANDIGARH

DATED:

### VERIFICATION: -

Verified that the contents of para no.1 & 2 of my above mentioned affidavit are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

CHANDIGARH

DATED:

**LIST OF DATED AND EVENTS**

**10.10.2003 TO 2014** The petitioner had initially joined the Haryuana Police as a constable 10.10.2003 .Thereafter she was promoted to Head Constable in the year 2014 .

**22.9.2017** , an FIR No. 548 , U/S 376,506 of IPC at Police Station Sadar Bahadurgarh ( Distt. Jhjjar) got lodged by one complainant by name of Shilpi Choudhary against accused Anil Dahiya . The petitioner was neither the Investigation Officer, nor the member of the investigation team in the said case on any manner.

**10.10.2017** complainant Shilpi Chaudharri on 10.10.2017 filed a complaint before the higher authority of the Police Department against the petitioner, Head Constable Rajesh and Constable Poonam, on the allegation that the complainant was being pressurized by these police officials to reach a compromise with the accused . **21.10.2017** respondent no.4 Superintendent of Police , Jhajjar . vide its order dated 21.10.2017 ordered the preliminary departmental inquiry against them to be conducted by D.S.P. Jhajjat . An enquiry was held by the D.S.P. on the said complaint and vide enquiry report dated 20.4.2018 , they were found guilty but it was wrongly concluded that the petitioner along with HC Rajesh and L/C Poonam were pressurizing the complainant to compromise/settle the matter with the accused in FIR.

**2.5.2018** That pursuant to the domestic enquiry, the petitioner was given a show- cause notice on 2.5.2018 by the respondent no.4 i.e S.P. Jhajjar , as to why the major penalty of stoppage of five annual increments with permanent effect be not imposed on her. But other person HC Rajesh and L/C Poonam was not given any notice.

That the petitioner appeared before the punishing authority i.e. respondent no.3 in pursuance to the show-cause notice dated 2.5.2018. On hearing the petitioner , punishing authority the respondent no.4 i.e .S.P. Jhajjar came to the correct conclusion **that the allegations against the petitioner as well as other constables , were not proved and the departmental enquiry against the petitioner was filed.**

**2.7.2018/1.2.2018** That after the closer/file (dated 19.6.2018) of the departmental enquiry against the petitioner , since there were no departmental cases pending against her and petitioner met all other criteria, she was promoted as Assistant Sub Inspector.( A.S.I. ) vide order dated 2.7.2018 w.e.f 1.2.2018.

* + 1. That however, more than 6 months after the closing/filing order dated 19.6.2018 of the departmental inquiry , passed by the punishing authority , the respondent no 3 Inspector General of Police ( IGP) Rohtak Rang, completely unknown reasons, decided to issue a disagreement note by exercise of powers conferred under Punjab Police Service Rule ( PPR) 16.28 ( as applicable in Haryana) and issue the show –cause notice dated 10.1.2019 to the petitioner . As per the disagreement note, the petitioner was yet again served with a show-cause notice, as to why a punishment of stoppage of 2 annual increments with future effect be not levied on the petitioner.
    2. That following the suo-moto disagreement note which had already pre-decided the issue against the petitioner , the respondent no.3 then passed the order dated 22.2.2019 vide this non-speaking order, a penalty of stoppage of two annual increments with further effect was levied on the petitioner.

------That against the illegal and incorrect order dated 22.2.2019 ,the petitioner has already filed her departmental appeal in the month of April-2019 to the Director-General of Police (DGP). Haryana i.e. Respondent no.2 which is still pending.

**13.5.2019** the petitioner has been served the show-cause notice dated 13.5.2019 (to revert the petitioner from the post of ASI to Head Constable ) by the respondents no.3 on the same set of allegations in which petitioner is already suffering the major punishment imposed her . It is has been stated that she is not entitled to be promoted as ASI w.e.f 1.2.2018 . The show-cause thus seeks to revert the petitioner to the post of Head Constable , by erroneously concluding that the penalty order dated 22.2.2019 has a retrospective effect.

**6.7.2019** That finally respondents not considered the reply of the show cause notice and passed the reversion order dated 6.7.2019 against the petitioner from the rank of ASI to Head Constable. A copy of reversion order dated 6.7.2019 is annexed here with as **ANNEXURE P-7.**

Hence this writ petition.

Chandigarh (SURESH AHLAWAT)

Dated: 8.7.2019 Advocate

Counsel for the Petitioner

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.W.P. No. of 2019

Roshni - ------------ Petitioner

VERSUS

State of Haryana and others ----------- Respondents

**INDEX**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr. No | Particulars | Date | Pages | Court fee |
| A | Court Fee |  |  |  |
| 1. | List of Date & Events | 8.7.2019 | 1-3 |  |
| 2. | Civil Writ Petition | 8.7.2019 | 3-8 | 50.00 |
| 3. | Affidavit in Support | 8 .7.2019 | 9 |  |
| 4. | **ANNEXURE P-1**  (Show Cause notice) | 2.5.2018 | 10-12 | 1.95 |
| 5. | **ANNEXURE P-2** (order passed by SP ) | 19.6.2018 | 13-14 | 1.30 |
| 6. | **ANNEXURE P-3** ( disagreement Note) | 10.1.2019 | 15 | 0.65 |
| 7. | **ANNEXURE P-4** ( order of IG ) | 22.2.2019 | 16-17 | 1.30 |
| 8. | **ANNEXURE P-**5 ( Show cause notice | 13.5.2019 | 18 | 0.65 |
| 9 | **ANNEXURE P-**6 ( Its reply) | --------- | 19-21 | 1.95 |
| 10 | **ANNEXURE P-7** ( Impugned Reversion order) | 6.7.2019 | 22 | 0.65 |
| 11 | **ANNEXURE P-**8 ( Bail Order) | 31.5.2018 |  |  |
|  | **VERNACULAR ANNEXURE** |  |  |  |
| 12 | **ANNEXURE P-3** ( disagreement Note) | 10.1.2019 |  |  |
| 13 | **POWER OF ATTORNY** | 7.7.2019 |  |  |

NOTE: 61.20

1. That the main law points involved in the writ petition are contained in para no. 11 at page no.

2. Relevant Statutes/Rules:

i. The Constitution of India.

ii. Rule 16.28 Punjab Police Rules-1934

3 Caveat petition filled :- No.

Similar case if any: CWP no. 14944 of 2019 . Order dated 29.5.20109 of the said petition is reproduced below for kind consideration :-

“After arguing for some time , Ld. Counsel for the petitioner seeks to withdraw this petition to file reply to the show cause notice dated 13.5.2019 . Dismissed as withdrawn.”

**DECLARATION**

The copies, as required by rule 16 of Chapter I Part A(a) of the Rules and Orders of Punjab and Haryana High Court, Volume-V, have been served upon----------- (the person upon whom the copies have been served)----------- at-----------(time) on-----------(date) in--------(place).

CHANDIGARH  **(SURESH AHLAWAT)**

DATED: 8.7.2019 **ADVOCATE**

**COUNSEL FOR THE PETITIONER**

ORDER

As per the direction issued by the Worthy Inspector –General of Police Rohtak Rang-Rohtak vide this good office no. 5379/A-1 dated 29.4.2019 that Lady/ASI Roshni no.915 /Jhajjar was promoted to the rank of Assistant Sub Inspector w.e.f 1.2.2018 and her name was brought on promotion List D . At that time, she was facing a departmental inquiry and ignored for promotion to the rank of Assistant Sub Inspector due to pending departmental inquiry against her . Later on , the above said departmental inquiry was filled by this office order no. 559-61 /stenodated 19.6.2018 . After that , her name was brought on promotion List D and further promoted to the rank of Assistant Sub Inspector w.e. f. 1.2. 2019 vide Inspector –General of Police Rohtak Range,Rohtak .Office memo no. 7145/A -1 dated 2.7.2018.

After that , a disagree note –cum- show causw notice was issued to her on dated 10.1.2019 by IGP/RTK Range RTKin the said departmental inquiry she was awarded a punishment of stoppage of two future annual increments with permanent effect vide IGP/RTK Range RTK good office order Endst no. 559-64 /Steno dated 22.2.2019 .

In view of above narrated facts and cercunstanses , a show cause notice was given to her vide this office memo no. 21410 dated 13.5.2019 for withdrawn undue benefits of prpomotion to the rank of Assistant Sub Inspector may be withdrawanand she will be treated as Head Constable.

In this regard, she has submitted her reply in this office on dated 5.6.2019 of show cause notice . Now , necessary approval in respect of Lady Assistant Sub Inspector Roshni no.915/Jhajjar for withdrawan promotion List D w.e.f. 1.2.2018 and for reversion from the rank of Assistant Sub Inspector to Head Cionstable has been accorded by W/ Inspector –General of Police Rohtak Range, Rohtak vide their good office memo no. 7767/A-1 dated 29.6.2019.

Keeping of the view of the aboce directions , the name of Lady/ASI Roshni no. 915/Jhajjar is hereby withdrawn from the List –D and rank of Assistant Sub Inspector to Head Cionstable w.e.f 1.2.2018.

Issue Order in O and all concerned to note for necessary action.

No. 29845-50 dated 6.7.2019

Sr. Supretendent of Police

Jhajjar

5.7.2019

Copy to:- R/ SSP for o6 ASI/P O/HC Steno

I/C Lady /ASI Roshni no. 915/JJR now HEAD CONSATBLE C/0 CHC ,DPO JHAJJAR

A COPY IS FARWARED to the IGP ,Rohtak Range,Rohtak

Sr. Supretendent of Police

Jhajjar

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

Roshni - ------------ Petitioner

VERSUS

State of Haryana and others ----------- Respondents

C.M No. of 2019

**IN CWP. No. 18461 of 2019**

Application under section 151 of C.P.C. praying for placing on record the fully true copies of Reply Annexure P-6 of show cause notice (Annexure P-5) and Promotion Order Annexure P-9.

RESPECTFULLY SHOWETH:-

1. That the above titled writ petitrion is pending in this Hon’ble Court and is **now is fixed for 19.7.2019 .**
2. That the copy of annexure P-6 is not complete in the main petition and and therefore, the petitioner wants to place on record the complete copy of the same and further the petitioner also wants to place on record ,the copy of promotion order of the petitioner as Annexure P-9.
3. It is, therefore, respectfully prayed that this application may kindly be allowed and petitioner may kindly be permitted to place on record Annexures P-6 & P-9 in the interest of justice.

CHANDIGARH

DATED:-15.7.2019 SURESH AHLAWAT

ADVOCATE

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT FOR THE PANJAB AND HARYANA AT CHANDIGARH

C.M No. of 2019

IN CWP. NO 18461 of 2019

Roshni - ------------ Petitioner

VERSUS

State of Haryana and others ----------- Respondents

N D E X

|  |  |  |  |
| --- | --- | --- | --- |
| S.  No. | Particulars | Date | Pages |
| 1. | Application u/s 151 C.P.C for placing on record | 15.7.2019 | 1 |

**Annexure**

2 **P-6** (True Copy of Reply of ----------- 2-4

Show cause notice P-5)

3 **P-9** (True Copy of Promotion order) 2.7.2018 5

4 Power of Attorney already on record

------------------------------------------------------------------------------------------

CHANDIGARH

DATED:-15.7.2019 SURESH AHLAWAT

ADVOCATE

COUNSEL FOR PETITIONER

**SURESH AHLAWAT, ADVOCATE**

**PUNJAB & HARYANA HIGH COUR CHANDIGARH CHAMBER NO. 62, (94171-11917)**

**========================================**

**Registered A.D. Dated :-**

**TO**

**1.**  Managing Director, Haryana Power Generation Corporation Ltd. Urja Bhawan Sector-6 Panchkula

2. Chief Engineer ( Admn.) , Haryana Power Generation Corporation Ltd. Urja Bhawan Sector-6 Panchkula

**Sub. Legal Notice –cum- Final Demand Notice**

To grant the benefit of notional pay fixation at par with the similar situated candidates/employees who have joined their services prior to my client i.e . as peon in the month of Feb. 2014 in the same land oustees policy matter

Under the instructions from and on behalf of Brij Mohan s/o Sh Rohtash who is working as Peon (Field) XEN Civil HVPN Rohtak (hereinafter referred to my client ) I hereby serve upon you with the following legal notice:-

1. That it is submitted that employment was provided to my client, in lieu of land acquired in month of July -2020 for setting-up in the name of Indira Gandhi Super Thermal Power Plant Jharli District Jhajjar. Whereas, he was entitled for this employment with similar situated persons who were provided employment in lieu of land acquired in the month of Feb -2014.

2. That my client possessing the qualification for the post of peon, as per the policy of land oustees because, he has passed the 10th class and more than 2 acre of their family’s land has been acquired .As per the land oustees policy. My client submitted their applications form being fully eligible in the office of the Deputy Commissioner Jhajjar with all the requisite documents with the consent of their all family members in Jan. 2009 and again in the month of July-2013 but no response was received then, petitioner filled the applications under RTI Act in the office of the D.C Jhajjar for ascertaining the status of their case but no status report has been given . Ultimately the petitioner served the legal notice through their counsel on 2.11.2017 to your office same was replied by the Chief Engineer on 17.11.2017 that Deputy Commissioner –Jhajjar did not forwarded your name .So, one more opportunity is given to the eligible candidates to contact the office of the Deputy Commissioner-Jhajjar and submit their applications along with relevant documents .

3. That in the month of the Jan.2018 the petitioner submitted their application forms along with other relevant documents in the office of the Deputy Commissioner –Jhajjar and D.C. Jhajjar forwarded their documents to your office on 15.1.2018 but in the next month i.e. in Feb. 2018 your office returned the same to the office of Deputy Commissioner Jhajjar with some objections on forwarded documents by saying that documents of the applicants are not complete, send it again with complete in all respect.

4. That the my client again submitted their application form with proper documents desired by office of the Deputy Commissioner –Jhajjar in the month of March-2018. But no information has been received regarding their employment . Than my client contacted in this regard, than office of the Deputy Commissioner –Jhajjar verbally informed that your application form has been forwarded to HPGCL Panchkula. But office of the HPGCL Panchkula verbally informed that yours application form has not been forwarded by the office of the Deputy Commissioner –Jhajjar . When petitioner contacted the official of the D.C. office at Jhajjar then they told that this matter is under consideration.

5. That when 6/7 years have lapsed, every time stated that matter is under consideration but all in vain. Then petitioner again served the legal notice on 14.8.2018 to your office . When no action is taken for the reasons best known to your office . Than petitioner constrained to file the writ petition before the Hon,ble High Court vide CWP no. 29851 od 2018 which was decided on 27.11.2018 and Hob,ble High Court directed your office to decide the representation of the petitioners within three months . When the direction given by the Hon,ble Court , has not been complied with in time, than my client again constrained to file the contempt petition vide COCP no. 3240 of 2019 .Than your office issued the employment letter dated 23.7.2020 in the pay sacle of Rs. 16900-53500 in pay metrix level-DL with allowances to my client for the post of peon. Whereas. he was fully entitled for the notional pay scale with similar situated persons who were employed in the month of the Feb. 2014 and covered same land oustees policy .

6. That in as much , my client has no fault at any level ,he submitted his application form with in time i.e first in 2009 and second application form in 2013 for employment in lieu of land acquired with similar situated persons . But similar situated persons were provided employment in the month of Feb. 2014 whereas, my client was provided employment in the month of July-2020 Than he is fully entitled notional pay fixation with his similar situated persons ,who were joined as peon in the month of Feb. 2014 in the same policy matter.

You are , therefore , requested through this, to grant notional pay fixation at par with the candidates/employees who have joined their services prior to the my client i.e . as peon in the month of Feb. 2014 in the same policy matter **with in a pried of TWO MONTHS**  from the date of receipt of notice , failing which my client will be left with no other alternative except to file the writ petition in the Hon.ble Punjab & Haryana High Court, Chandigarh and in that case all the concerned authorities shall be responsible for all types of costs and litigation expenses . Please take this notice and ensure compliance.

A copy of this notice has been retained in my office for further reference and record.

**Encl** SURESH AHLAWAT

ADVOCATE