

HARYANA STATE ELECTRICITY BOARD AND ANR.

v.

MAHA SINGH AND ANR.

APRIL 21, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

*Service Law :*

*Appointment—Policy of Haryana Electricity Board to appoint one member from the family from which land had been acquired—Widow of land owner's son appointed—Subsequent application by another son for employment—High Court giving direction for his appointment—On appeal, held, since the widow of one son has already been appointed, there could not be a direction for appointment of another member from the same family—Hence High Court was not right in giving direction for appointment.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3137 of 1997.

From the Judgment and Order dated 17.1.97 of the Punjab & Haryana High Court in C.W.P. No. 1813 of 1996.

K.K. Jain, Ajay K. Jain, Shashi Bhushan and Pramod Dayal for the Appellants.

R.K. Talwar and Goodwill Indeevar for the Respondents.

The following Order of the Court was delivered :

Leave granted.

This appeal by special leave arises from the judgment of the Division Bench of the High Court of Punjab & Haryana, made on January 17, 1987 in CWP No. 1813/96.

The admitted position is that as per the policy of acquisition, the appellants are required to provide an employment to one of the members of the family whose land is acquired. The cut-off date prescribed was December 13, 1991. One Shamsher Singh, brother of the respondent and son of the owner had applied for appointment. Since he was not being considered, he filed a writ petition before the High Court. The High Court

directed the Board-appellant to appoint Shamsher Singh. However, before appointment could be made, he died. Consequently, his wife Smt. Suresh Bala applied for and was appointed. Subsequently, the respondent applied for appointment but he was not given appointment as appointment had already been given to the widow of Shamsher Singh. Consequently, he filed writ petition. The same stand has been taken in the High Court; the Division Bench has held that in view of the policy that employment will be provided to one of the members of the family of the owner, appointment to the first respondent was required to be made and appointment of Suresh Bala is illegal. Thus this appeal by special leave.

Shri Goodwill Indeevar, learned counsel for the respondents, contends that the land belonged to the mother of the respondent and she gave consent for appointment of Shamsher Singh. After his demise, she gave consent to the employment of respondent, her second son. The very object is to provide assistance to the displaced persons due to the acquisition. As Shamsher Singh died, the necessary appointment should be given to one of members of the family of the owner. The widow of Shamsher is not the member of the family of the owner. Therefore, it is argued that her appointment is illegal in law.

However, she being widow had applied for appointment in place of her husband, Shamsher Singh; admittedly, sanction was given for giving appointment to her husband, of Shamsher Singh. The appellants have acceded to her request and gave appointment to Suresh Bala. She having been appointed, there cannot be a direction for appointment of another member from the same family. Therefore, the High Court was not right in giving direction to appoint the respondent.

The appeal is accordingly allowed. The writ petition stands dismissed. No costs.

Appeal allowed.