service should be counted towards seniority and eligibility. We have considered these authorities but none of them is on the point with which we are concerned. Here we are concerned with a specific rule which says that Temporary Engineers would be considered as members of the Class II service for purpose of promotion to and fixation of seniority in Class I. Once we are holding that Temporary Engineers are different than the officiating Sub Divisional Engineers, the petitioners cannot claim that their officiating period of service as Sub Divisional Engineers when they were not members of the Class II service, should be counted towards their seniority in Class I and II as well as for eligibility for promotion to Class I. None of the authorities cited by the learned counsel for the appellants helps him at all.

(11) For the reasons recorded above, we find no merit in these appeals, which are hereby dismissed, without any order as to costs.

R.N.R.

Before I. S. Tiwana, G. R. Majithia, JJ.

SHARAN PAL SINGH AND OTHERS,—*Petitioners.*

versus

STATE OF PUNJAB AND ANOTHER,—*Respondents.*

Civil Writ Petition No. 2246 *of* 1985.

11th October, 1990.

Land Acquisition Act, 1894—*Ss.* 4, 5-*A*, 6, 9, 11, 11-*A*—*Land, superstructures, crops & trees constitute one unit and calls for one award within a period of* 2 *years*—*Non-compliance of provisions of S.* 11-*A*—*Whether vitiates the entire proceedings.*

Held, that there is no escape from the conculsion that the land, buildings standing thereon and the standing crops and trees on the land constitute one unit, and the value of the entire unit has to be determined with all its advantages and potentialities. Necessary consequence will be that only one award has to be rendered for the unit. (Para 9)

Held, that Section 11-A of the Land Acquisition Act makes it mandatory for the Land Acquisition Collector to make an award under section 11 *ibid* within a period of two years from the date of

publication of the declaration under section 6 of the Act, and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse. The same envisages the award for the unit, viz., the land, buildings and super-structures and standing crops and trees thereon. The acquisition proceedings would lapse insofar as the award relates to that portion of the acquired land on which the super-structures and trees were standing on the date the award had been made. (Para 10)

Petition under Articles 226 and 227 of the Constitution of India praying that the following reliefs:—

(*i*) *That a writ in the nature of certiorari quashing the award No. 423 made on 25th March, 1985 by respondent No. 2, Annexure P-1, be issued to the respondents; or that award may be quashed by any other appropriate writ, direction or order;*

(*ii*) *that pending disposal of this writ petition, the respondents be restrained by appropriate writ, direction or order from taking further proceedings in respect of the land in dispute;*

(*iii*) *that service of the advance copies of the writ petition on the respondents be dispensed with ;*

(*iv*) *that filing of certified copies of documents appended to this writ petition be dispensed with; and*

(*v*) *cost of the writ petition be awarded to the petitioners against the respondents.*

R. S. Bindra, Sr. Advocate, with Lakhinder Singh, Advocate, *for the Petitioners.*

H. S. Bedi, Advocate General, Punjab, *for the Respondents.*

JUDGMENT

G. R. Majithia, J.

(1) This judgment disposes of C.W.P. No. 2246 of 1985, 4345 of 1983, 5604 of 1983 and 5785 of 1983 since common questions of law arise for adjudication therein.

(2) A reference to the relevant facts has been made from C.W.P. No. 2246 of 1985 except where reference is called for to the

pleadings in other petitions for determining a point of law arising therein.

(3) The facts:—

Respondent No. 1, *vide* notification No. 3/131/81/5UDI/4727, dated June 1, 1982 published in the Punjab Government Gazette (Extra-ordinary), dated June 1, 1982 under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) notified 22.94 acres (103 kanals 11 Marlas) of land for acquisition at public expense for pubilc purpose, namely, for setting up of reisdential Urban Estate (for laying of 120' wide circular road and underground sewer in the Urban Estate, Jalandhar). This notification was followed by a declaration under Section 6 of the Act published,—*vide* Notification No. 3/131/81-5UDI/15248, dated August 17, 1983 indicating that land measuring 6.53 acres (52 Kanals 5 Marlas) was acquired at public expense for public purpose. The Land Acquisition Collector, Urban Development Department, Punjab, Chandigarh (for short, the Collector) announced the award on March 25, 1985.

(4) The acquisition was challenged on the ground that the ostensible purpose for acquisition of land was setting up of a residential urban estate in village Kingra, Tehsil and District Jalandhar, but it was susbsequently found that the land was acquired only for setting up of a road of 120' width and it was to be a ring road linking Nakodar Road, Jalandhar with Jalandhar Cantt. There was apparent conflict between the object of the acquisition mentioned in the notifications with what actually turned out to be. The owners of the land whose land had been acquired did not get opportunity to oppose the acquisition on the ground that lying of 120' wide circular road would be highly prejudicial to their interests. Civil Writ Petitions No. 4345, 5604 and 5785 of 1983 were filed in this Court and these were admitted to hearing by a Division Bench and dispossession of the petitioners from the land sought to be acquired was stayed. Civil Misc. No. 1989 of 1984, 1991 of 1984 and 1992 of 1984 in C.W.P. Nos. 4345, 5604 and 5785 of 1983 respectively were moved by the respondents and a Division Bench of this Court,—*vide* separate orders dated August 31, 1984, September 5, 1984 and September 5, 1984, modified the stay order observing thus:—

> "Heard. The stay order is vacated subject to the condition and to the extent that while laying the sewerage, the houses of the petitioners shall not be damaged or demolished."

(5) Notices under Section 9 of the Act were issued by respondent No. 2. In response thereto, the petitioners appeared before him on September 12, 1983. They claimed compensation at the rate of Rs. 5,000 to RS. 7,000 per Marla for the land sought to be acquired and is support of their claim, they filed a number of documents. Respondent No. 2 did not hold any enquiry enjoined by Section 11 of the Act. He gave award dated March 25, 1985 with regard to the land and not the super-structures standing thereon. The award was made in breach of the statutory provisions and the same was invalid. It is not the one as contemplated by Section 11 of the Act. It determines only the market value of the land and not the super-structures and the trees standing thereon. Section 11 of the Act contemplates only one award and since the award relating to super-structures and trees has not been given, it is bad in law. The possession of the acquired land can be taken by respondent No. 2 only after making an award in conformity with the provisions of Section 11 of the Act and payment of compensation to the right holders. The acquisition is *mala fide*. In the notification under Section 4 of the act, is stated that the land is required for a public purpose, namely, setting up of a residential urban estate in the area of village Kingra, tehsil and district Jalandhar. In the declaration under Section 6 of the Act, again it is stated that the public purpose is "setting up of a residential urban estate in the area of Tehsil and District Jalandhar". The petitioners have now learnt that the land is required only for setting up of a road measuring 120' in width. The setting up of a road is a purpose distinct from the setting up of a residential urban urban estate. The real purpose was not disclosed in the notifications under Sections 4 and 6 of the Act and the right holders were deprived of their right to lodge effective objections against the acquisition on the ground that the laying out of a road in the region was not justified. The only prayer made is for quashing the impugned award.

(6) Written statement has been filed by the Collector on behalf of respondents No. 1 and 2. A preliminary objection has been taken that the petitioners were fully aware of the purpose of compulsory acquisition and they filed objections under Section 5-A of the Act, which were duly considered and rejected by respondent No. 1 before issuance of the declaration under Section 6 of the Act. The petitioners also submitted their claims for compensation on March 12, 1983 in response to a notice under Section 9 of the Act. They were, thus, estopped from challenging the acquisition proceedings. On

merits, it was admitted that C.W.P. Nos. 4545, 560 and 5785 of 1989 were filed in this Court and those are pending for adjudication. Petitioners at serial No. 1 to 12 were present at the time of hearing of the objections under section 5-A of the Act. Notices were also served on petitioners at serial Nos. 13 to 15. They did not file any objetcions. It was further pleaded that the laying of link road in the urban estate is essential part of setting up of an urban estate. Notices under Section 9 of the Act were issued to the interested persons on September 12, 1988 for filing their respective claims/ objections. Respondent No. 2 gave the award under Section 11 of the Act and in accordance with the provisions of Section 12 *ibid*, it has attained finality. The award is complete with respect to the land and it was specifically mentioned therein that for the structures and trees the award will be announced separately, because the assessment for the structures and trees standing thereon had not been received from the respective departments. It was also averred that buildings and trees standing on the land constitute one unit and there was no necessity to give separate award for structures and trees.

(7) The learned counsel for the petitioners submits that (i) since respondent No. 2 did not give a complete award as envisaged by section 11 of the Act within a period of two years from the date of publication of the declaration under Section 6 of the Act, the entire proceedings for acquisition at the land lapsed in view of section 11-A of the Act; and (ii) the question is *mala fide* and is a colourable exercise of power. According to the learned counsel, the award with regard to super-structures and trees standing on the land has not been given so far. Section 11 of the Act contemplates a complete award relating to land and super-structures. Since the award relating to super-structures and trees has not been given so far, Section 11-A would be attracted and proceedings for acquisition would lapse and in support of his submission, he relied upon a Division Bench judgment of this Court reported as *Ranjit Singh* v. *The Union Territory of Chandigarh* (1), and *The State of Kerala* v. *P. P. Hassan Koya* (2).

(8) There is no definition of an award in the statute, but it may be stated from the general scheme of the Act that if an order states the area of the land, the compensation to be allowed and the

(1) 1983 P.L.J. 290.

(2) A.I.R. 1968 S.C. 1201.

apportionment thereof amongst the persons interested in the land of whose claims the Collector has information, such an order will be an award. Section 11 stipulates such an award by its very phraselogy. Clauses (i), (ii) and (iii) of section 11 specify the contents of the award to be passed by the Collector. A clear statement by the Land Acquisition Collector is called for in respect of the total amount to be awarded as compensation and in the scheme of rateable distribution of the amount between various claimants. Sub-section (1) of section 11 of the Act stipulates the totality of the compensation for the land, including the various items scheduled in section 23. The land, the structures standing thereon and standing crops and trees constitute one *unit* and the value of the entire unit has to be determined with all its advantages and its potentialities. Under Section 23 of the Act, compensation has to be determined by taking into consideration the market value of the land on the date of the publication of the notification under section 4(1) and the damage, if any, sustained by the persons interested under any of the heads mentioned in clauses secondly to sixthly of sub-section (1) of Section 23 *ibid.* In *The State of Kerala* v. *P. P. Hassan Koya,* A.I.R. 1968 Supreme Court 1201, the apex Court was dealing with the appeal filed by the State of Kerala against the judgment of the High Court which, on appeal, partly affirmed that of the Land Acquisition Court under section 18 of the Act whereby the Land Acquisition Court held that the property acquired has to be valued as a composite property. The question arose in the following circumstances: On December 8, 1954, the Government of Madras issued a notification under section 4 of the Act notifying for acquisition for a public purpose, viz., widening of the Madras-Calicut Road at Palyam — seven units of land with buildings. One of the units was T.S. No. 298/2 measuring 3911 sq. ft. together with a building standing thereon used for business purposes. Notification under section 6 of the Act was issued on December 12, 1954, and possession of the land was taken soon thereafter. The Receiver of Patinhare Kovilakam Estate held T. S. No. 298/2 in Jenmi right. The respondent in that appeal held in that land the rights of a Kanomdar under the deed dated March 27, 1954. The buildings constructed on the land belonged to the respondent and were let out to tenants at an aggregate monthly rent of Rs. 332.50. The Land Acquisition Officer determined the compensation payable to the persons interested at the rate of Rs. 10,000 per acre for the land, and for the houses standing thereon 'at the break-up value'. In a reference, at the instance of the respondent, under Section 18 of the Land Acquisition Act, the

Land Acquisition Court took the view that the method adopted by the Land Acquisition Officer for determining compensation by separately valuing the lands as garden lands and the break-up value of the houses was 'manifestly unjust and improper. In his view, each unit had to be valued as a composite property. He determined the market value by capitalizing the net rent received from the unit, and taking into consideration the return from gilt-edged securities at 3½ per cent at the relevant date and award compensation for the unit in which the respondent was interested at 35 times the net annual rental. Against the award of the Land Acquisition Court, the State of Kerala appealed to the High Court of Kerala. The High Court determined the compensation by multiplying the net rent by 33⅓ times that being in its view the true multiple derived from the return based on the current return from gilt-edged securities. Against the judgment rendered by the High Court, the State of Kerala preferred an appeal with certificate under Article 133(1) (a) of the Constitution. In the apex Court, following two questions were raised:—

(1) that the Receiver having accepted the award of the Land Acquisition Officer, the respondent could claim compensation only for the right which he had in the land and the buildings and the method adopted by the Land Acquisition Officer was in the circumstances the only appropriate method; and

(2) that the rate of capitalization was unduly high.

The apex Court repelled the contention raised on behalf of the appellant and held thus:—

"We agree with the Trial Court and the High Court that the method adopted by the Land Acquisition Officer for determining compensation payable for extinction of the interest of the holder of the land and of the buildings separately was unwarranted. In determining compensation payable in respect of land with buildings, compensation cannot be determined by ascertaining the value of the land and the 'break-up value' of the building separately. The land and the building constitute one unit, and the value of the entire unit must be determined with all its advantages and its potentialities. Under section 23 of

the Land Acquisition Act compensation has to be determined by taking into consideration the market value of the land at the date of publication of the notification under section 4(1) and the damage, if any, sustained by the persons interested under any of the heads mentioned in secondly to sixthly in section 23(1) of the Land Acquisition Act."

(9) In the light of the authoritative pronouncement there is no escape from the conclusion that the land, buildings standing thereon and the standing crops and trees on the land constitute one unit, and the value of the entire unit has to be determined with all its advantages and potentialities. Necessary consequence will be that only one award has to be rendered for *the unit*.

(10) Section 11-A of the Act makes it mandatory for the Land Acquisition Collector to make an award under section 11 *ibid* within a period of two years from the date of publication of the declaration under section 6 of the Act, and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse. In the instant case, notification under Section 4 of the Act was published in the Punjab Government Gazette dated June 1, 1982, followed by a notification under Section 6 dated August 17, 1983. The Land Acquisition Collector made the award on March 25, 1985, relating to the land and not for the superstructures and trees standing thereon. The award rendered by the Land Acquisition Collector was not the one envisaged under Section 11 of the Act. The same envisages the award for *the unit, viz.*, the land, buildings and superstructures and standing crops and trees thereon. The acquisition proceedings would lapse in so far as the award relates to that portion of the acquired land on which the super-structures and trees were standing on the date the award had been made.

(11) The judgment in *Ranjit Singh's case* (supra) has no bearing to the facts of the instant case and is distinguishable as a revealed by the following observations of the Bench :—

"Thus to work out the market value of the orchard lands on the basis of the annual value or according to formula known as capitalisation, is most likely to work to the prejudice of the claimant whose land under the fruit

trees has enormous potentiality to be utilised as residential or commercial area. In such a case, the value of the fruit trees or the orchard has to be assessed independently of the value of the land or in other words the potentiality of the land to be utilised for residential or commercial purposes. It appears, it is in the light of this principle that even the Land acquisition Collector in the case in hand chose to evaluate the land and the fruit trees separately, through to our mind he wrongly gave two separate awards for the same acquisition. It would have been fair to the appellant to assess the market value of his fruit trees and then to add that to the market value of the land as such keeping in view its potentiality."

(12) Thus, for the reasons stated above, the writ petitions partly succeed. The acquisition proceedings will lapse with regard to that part of the acquired land on which super-structures and trees were standing on the date of acquisition and for which no award was rendered within the prescribed period of two years from the date of publication of the declaration under Section 6 of the Act, viz., August 17, 1983. The parties are left to bear their own costs.

P.C.G.

Before : J. V. Gupta, C.J. & R. S. Mongia, J.

PANJAB UNIVERSITY AND ANOTHER,—*Appellants.*

versus

ASHWINDER KAUR,—*Respondent.*

Letters Patent Appeal No. 1217 *of* 1988.

16th November, 1990

Panjab University Calendar, Volume II, 1984 *(Page* 172)—*Regl.* 3.1—*Regulation* 3.1 *prescribing minimum qualification for admission to M.Lib. Course—Competent authority can lay down higher qualifications for admission than the prescribed minimum—Weightage of* 5 *per cent marks for dependant wards of University employees is discriminatory and liable to be struck down—Normalisation of marks for purposes of admission is to be applied to both minimum qualifying examination as well as higher qualification.*

Held, that Regulation 3.1 only prescribes the minimum qualifications for admission to M.Lib. course. Consequently, we hold that