



HPGCL
AN ISO: 9001, ISO:
14001 & OHSAS: 18001
CERTIFIED COMPANY

HARYANA POWER GENERATION CORPORATION LIMITED

Regd. Office: C-7, Urja Bhawan, Sector-6, Panchkula
Corporate Identity Number: U45207HR1997SGC033517
Website: www.hpgcl.gov.in
Telephone No. 0172-5023407 Fax No. 0172-5022432



From

Chief Engineer/Admn.,
HPGCL, Panchkula.

To

1. All Chief Engineers in HPGCL.
2. All Financial Advisors & CAO in HPGCL.
3. SE/FTPS, HPGCL, Faridabad.

Memo No. 189 /Ch.43 /HPGC/ENG/HPU/C-2023

Dated: 04/05/2023.

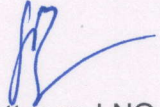
- Subject: -1. CWP No. 16531 of 2020 titled as Gram Panchyat Salempur V/s State of Haryana & others.**
2. CWP No. 5005 of 2018 titled as Satnam Singh Vs. State of Haryana & Anr.
 3. CWP No. 27550 of 2015 titled as Sat Pal V/s UHBVN.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of Memo No. Ch-101/LB-2 (340) dated 28.04.2023, Memo No. Ch-109/LB-2 (94) dated 25.04.2023 and Memo No. 65/LB-2 (225) dated 21.03.2023 alongwith copies of judgments dated 23.03.2023, 09.02.2023 & 23.02.2023 respectively, passed by Hon'ble High Court, Chandigarh in the subject cited cases, received from the office of LR/HPU, Panchkula for praying dismissal of similar court cases by placing reliance on the ibid judgments.

This issues with the approval of Chief Engineer/Admn., HPGCL.

DA/As above


Xen/Rectt-cum-LNO,
For Chief Engineer/Admn.,
HPGCL, Panchkula

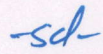
Endst. No. Ch-43 / HPGC/ENG/HPU/C-2023 /189

Dated: 09/05/2023

A copy of the same is forwarded to the following for information and further necessary action:-

1. Xen/IT, HPGCL, Panchkula with a request to host the judgments dated 23.03.2023, 09.02.2023 & 23.02.2023 alongwith office memos dated 28.04.2023, 25.04.2023 & 21.03.2023 (**copies enclosed**) on the official website of HPGCL, please.

DA/As above.


Xen/Rectt-cum-LNO,
For Chief Engineer/Admn.,
HPGCL, Panchkula

CC:-

PS to Chief Engineer/Admn, HPGCL, Panchkula.



HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109

Corporate Identity Number : U40101HR1997SGC033683

Website : www.hvvn.org.in, E-mail: companysecy@hvvn.org.in

Correspondence E-mail - lr@hvvn.org.in, hvvnlegalofficer2@gmail.com

Telephone No. - 0172-2560769, 0172-2571841

To

1. The CE/Admn. HVPNL, Panchkula
2. The CE/Admn. UHBVN, Panchkula
3. The CE/Admn., DHBVN, Hisar
4. The CE/Admn. HPGCL, PAnchkula.

Memo No. *Ch/101*/LB-2(340)

Dated: 28.04.2023

Subject: CWP No. 16531 of 2020 titled as Gram Panchyat Salempur Vs State of Haryana & others.

Attention is drawn to judgment dated 23.03.2023 passed in subject cited case vide which the Hon'ble High Court dismissed the writ petition on account of delay and latches.

The operative part of judgment dated 23.03.2023 is given here under:-

"The learned counsel has yet insisted in making an argument before this Court, that compensation is yet to be assessed in favour of the Gram Panchayat. The above argument is again rejected, as it works against the principle of approbation and reprobation, inasmuch as, once the Panchayat, concerned has permitted but in the above stated terms, the actionings upon by co-respondents No. 6 & 7, of the Panchayat resolution (supra). Therefore, the Panchayat is estopped from reprobating from Annexure P-1, which is, but, an donation of the petition lands, to the co-respondents No. 6 & 7, who as above stated, is an instrumentality or an agency of the State of Haryana. Thus is amenable to become a valid recipient of the relevant statutory provisions. Moreover, since the resolution of the Gram Panchayat, has also been permitted to be acted upon by the Gram Panchayat, especially as revealed by the revenue documents which have been placed on record, wherein, speakings occur qua a power house becoming erected upon the petitions land. Therefore, the institution of the instant writ petition before this Court, in the year 2020, hence much belatedly from the acted upon resolution of the year 2004, as enclosed Annexure P-7, hence begets a sequel qua the instant writ petition being gross abuse of the process of Court, given the same being hit by vices of gross delays and laches. In consequence, this Court finds no merit in the writ petition, accordingly the same is dismissed.

All pending applications disposed of accordingly".

Library No. 616 Xen/Rectt.
Dated: 04/05/23

2972
03/05/23

CE/Admn.,

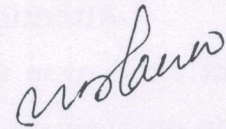
Supra/23

M. V.

In the aforesaid judgement Hon'ble High Court has held that acted upon resolution was passed back in Year-2004 by Gram Panchayat and Institution of writ petition in Year-2020 would constitute gross abuse of process of court as same is hit by vices of gross delay and laches as such the claim was rejected vide order dated 23.03.2023. It is an important on the principle of delay and laches. The above judgement be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 23.03.2023 passed by Hon'ble High Court. It is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 23.03.2023 on the website of concerned Power Utility. A complete copy of judgment dated 23.03.2023 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As Above



Legal Officer,
HPU, Panchkula.

CC:

The XEN/TS Divn., HVPNL, Yamuna Nagar.



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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To

1. The CE/Admn., HVPNL, Panchkula.
2. The CGM/Admn., UHBVN, Panchkula.
3. The CE/Admn., HPGCL, Panchkula.
4. The CE/Admn., DHBVN, Hisar.

Memo No. 109/ LB-2(94)

Dated: 25.04.2023

Subject: CWP No. 5005 of 2018 titled as Satnam Singh Vs. State of Haryana & Anr.

Attention is drawn to judgment dated 09.02.2023 passed in subject cited case vide which the Hon'ble High Court has disposed of the petition filed by the petitioner seeking relief of compensation from Nigam on account of electrocution.

The operative part of judgment dated 09.02.2023 is given here under: -

"Counsel for the petitioner, however, contends that the necessary measures required for the purpose of installation of GO switch and/or precaution had not been exercised and as such, the respondent-distribution licensee was negligent. Disputed questions of fact arise from the inter se contentions and pleadings raised by the parties. The written statement filed by the respondent distribution licensee has not been controverted by filling any rejoinder/replication.

However, without commenting on the maintainability of the claim and/or merits of the inter se stand adopted by the parties, counsel appearing on behalf of the petitioner seeks permission to withdraw the instant writ petition so as to file an appropriate petition before a competent Court for seeking compensation on account of the incident in question after establishing the liability/lapse of the respondents.

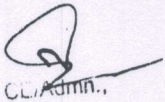
Disposed of as withdrawn with liberty as aforesaid.

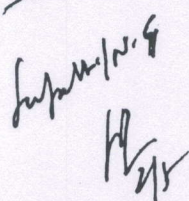
All the pending miscellaneous applications, if any, are also disposed of."

It is an important judgment on the point that go switch is the property of the Nigam and the petitioner had no authority to touch that. The above judgment be circulated to offices under your control for praying dismissal of similar cases by

Diary No. 610 Xen/Rectt.
Dated. 02/05/23

Memo No. 2914
Date 01/05/23
DS/Admn.
DS/T&M
XEN/HR&TRG
XEN/Rectt.

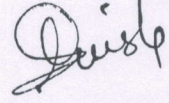

CE/Admn.



placing reliance on the judgment dated 09.02.2023 passed by Hon'ble High Court. It is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 09.02.2023 on the website of concerned Power Utility. A complete copy of judgment dated 09.02.2023 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As above



Legal Officer,
HPU, Panchkula.

CC:-

1. The Deputy Secretary/Technical, UHBVN, Panchkula and DHBVN, Hisar, HVPNL, Panchkula for hosting on website.
2. The SE/IT, HPGCL, Panchkula.
3. The CE OP Circle, UHBVN, Panchkula & Rohtak.
4. The CE OP, DHBVN, Hisar.

(42)

HARYANA VIDYUT PRASARAN NIGAM LTD.

(A Govt. of Haryana undertaking)

O/o Legal Remembrancer

Shakti Bhawan, Sector-6, Panchkula

Phone: 0172-2560769, 2571107

E-mail: lr@hvpn.org.in

To

1. The CE/Admn., HVPNL, Panchkula.
2. The CE/Admn., HPGCL, Panchkula.
3. The CE/Admn., UHBVN, Panchkula.
4. The SE/Admn., DHBVN, Hisar.

Memo No.

65/UB-2(225)

Dated:

21.03.2023

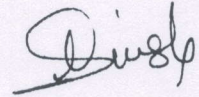
Subject:

CWP No. 27550 of 2015 titled as Sh. Sat Pal Vs UHBVN.

Enclosed please find herewith copy of order dated 23.02.2023 passed by Hon'ble Punjab and Haryana High Court in the above cited case with the advice to circulate the same to the offices under your control for the facility of reference and for placing reliance in similarly situated cases praying dismissal of such cases in terms of law laid down by the Hon'ble High Court and also host the same on website of respective utility/corporation.

This issue with the approval of L.R.

DA: As above



Legal Officer
HPU, Panchkula

Memo No. 2197
Dated 22/03/23
DS/IL
US/GE
DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt.

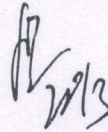


CE/Admn.

Diary No. 418 Xen/Rectt.

Dated 28.03.23

Supd. N. S.



22/3

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 27550 of 2015 (O&M)
Reserved on: January 27, 2023
Date of Decision: February 23, 2023

Sat Pal

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.

Mr. Kartar Singh Malik, Advocate,
for the respondents.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Certiorari quashing/modifying the order dated 21.10.2009 (Annexure P-6) passed by respondent No.3, vide which the petitioner's suspension period has been ordered to be treated as 'leave of kind due' instead of 'period on duty'; with a further prayer for issuance of a writ in the nature of Mandamus directing the respondents to treat the suspension period of the petitioner as a period on duty and to grant him all the consequential benefits.

2. The facts leading to the filing of the instant writ petition are that the petitioner joined erstwhile Haryana State Electricity Board, now known as UHBVNL as T. Mate in the year 1972 and was promoted as ALM in the year 1979. He was suspended on 26.5.1995 in pursuance of

registration of a FIR No. 198 dated 7.5.1995 registered under Section 302 etc. IPC. After trial, the petitioner was acquitted in the aforesaid case by Additional Sessions Judge, Yamuna Nagar on 10.12.1998. The respondent-State filed an appeal against the judgment of acquittal in this Court. However, despite acquittal of the petitioner by the trial court and pendency of the State's appeal, the respondent-Nigam served a charge sheet dated 9.4.2001 (P-1) on the petitioner. The petitioner filed a detailed reply to the charge sheet stating therein that he was falsely implicated in the said FIR and in fact the petitioner was on duty on the day of alleged occurrence and in view of the reply so filed, no further action was taken on the charge sheet so served on the petitioner and rather he was taken back on duty on 11.7.2001, while revoking his suspension. Thereafter, the petitioner made a representation dated 3.11.2006 (P-2) to respondent No.3 stating that the department had not granted him any increment and full salary for the period of suspension. Therefore, he requested regularization and payment of full salary of suspension period. In the meantime, the appeal filed by the respondent—State against acquittal of the petitioner stood dismissed by this Court on 18.7.2008.

3. Pursuant to the dismissal of the State's appeal against judgment of acquittal, respondent No.3 passed an order dated 22.12.2008 (P-3) dropping the charge sheet dated 9.4.2001. Consequently, the petitioner again represented the competent authority for regularization of his suspension period from 19.5.1995 to 11.7.2001. Respondent No.3, while agreeing with the request of the petitioner, wrote a letter dated 8.4.2009 (P-4) to respondent No.2 recommending regularization of petitioner's

suspension period. When the competent authority did not act on the recommendation so made by respondent No.3, the petitioner served a legal notice dated 20.10.2009 (P-5) claiming regularization of suspension period and all consequential benefits. While acting on the legal notice, respondent No.3 passed another order dated 21.10.2009 (P-6), modifying his earlier order dated 22.12.2008 to the effect that the suspension period of the petitioner from 19.5.1995 to 11.7.2001 be treated as leave of kind due. By impugned order dated 21.10.2009, respondent No.3 though ordered regularization of petitioner's suspension period but at the same time it was ordered that the said period be treated as leave of kind due. In the meantime, the petitioner retired from service as ALM on 31.01.2012. After retirement, again the petitioner represented respondent No.3 on 13.9.2012, who in turn sought advice of L.R. HPU, Panchkula on the issue. When nothing was done, the petitioner again represented on 5.6.2013 and 18.2.2015 but of no avail, hence the instant writ petition.

4. Learned counsel for the petitioner would argue that the action of the respondents in treating the petitioner's suspension period as leave of kind due instead of period on duty is totally wrong, unjustified and arbitrary. It is submitted that the petitioner stood acquitted in the FIR, on the basis of which he was suspended and even the appeal filed against the judgment of acquittal stood dismissed by this Court, still the suspension period of the petitioner has not been regularized.

5. Per contra, learned counsel appearing on behalf of the respondents would argue that the petitioner is not entitled to full salary for the suspension period on the principle of 'no work no pay' and he was

entitled to only terminal benefits, which have already been given to him.

6. I have heard learned counsel for the parties and have gone through the record carefully.

7. The sole question that falls for consideration in this case is, whether the suspension period of the petitioner from 19.5.1995 to 11.7.2001 be treated as leave of kind due or it be treated as period on duty, in view of the fact that the petitioner stood acquitted in the FIR on the basis of which he was suspended?

8. It is an admitted fact that the petitioner herein, namely Sat Pal was arrested in case FIR No. 198 dated 7.5.1995 registered under Section 302 etc. IPC and consequently was placed under suspension vide office order dated 26.5.1995. He stood acquitted by the trial Court vide judgment dated 10.12.1998, however, the said order was challenged in appeal by the State before this Court. The petitioner was charge-sheeted in 2001 but proceedings were dropped and he was reinstated in service on 11.7.2001 and now seeks to claim the benefits of salary etc. for the period he remained suspended. The petitioner herein was involved in the FIR which was registered on account of a private dispute in the village which led to the death of a private citizen. The claim to get his period of suspension to be considered as duty stands rejected. Rule 7.3 (2) of the Punjab Civil Services Rules, which deals with such a situation, is reproduced hereunder:-

"7.3(2) Where the authority competent to order reinstatement is of opinion that the Government employee, who had been dismissed, removed or compulsorily retired, has been fully exonerated, the Government employee shall, subject to the provisions of sub-rule (6), be paid his full pay and allowances

to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended, prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government employee had been delayed due to reasons directly attributable to the Government employee it may, after giving him an opportunity to make representation and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government employee shall, subject to the provisions of sub-rule (7), be paid for the period of such delay only such amount (not being the whole) of pay and allowances, as it may determine."

9. A bare reading of the provision would clearly reflect that a government employee, who has been dismissed, removed, compulsorily retired or suspended, if reinstated upon having been fully exonerated, would be entitled to full salary and allowances for the period i.e. the date of dismissal/suspension till the date of reinstatement. The employer has been given liberty to decide the question with regards to payment of full salary during the suspension period in case the employee has been reinstated. Learned counsel for the petitioner has relied upon a judgment in **Sucha Singh Versus State of Punjab and others 2014 (1) SCTR 183**, where the petitioner therein had been nominated as accused in an FIR registered under the Prevention of Corruption Act and on exoneration sought reinstatement in the department as during the pendency of the proceedings before the criminal court, he stood dismissed from service. The petitioner therein had been reinstated but the period of absence from duty from dismissal till the

date of reinstatement was treated as 'no work, no pay'. As a sequel to such order, the writ petition was filed and subsequently allowed. However, the facts of the present case are different from the facts in *Sucha Singh's case*. In *Sucha Singh's case*, the proceedings had been initiated by the department under the Prevention of Corruption Act, whereas the petitioner herein had been involved in a *private dispute* wherein Section 302 etc. IPC were invoked and the petitioner was named in the FIR and subsequently arrested. The petitioner stood acquitted and thereafter reinstated in service. Therefore, in the opinion of the Court, the law as settled in *Sucha Singh's case* would not be applicable to the instant case. In the judgment rendered in *Union of India and others Versus Jaipal Singh, 2000 (1) SCT 108*, it has been held that an employee who has been convicted for an offence committed by him in his private life and thereafter stands acquitted in appeal, he would be entitled to reinstatement but cannot be granted backwages because the employer cannot be blamed and made liable to pay him for the period that he remained out of service. The Supreme Court in *Ranchhodji Chaturji Thakore Versus Superintendent Engineer, Gujarat Electricity Board, Himmatnagar (Gujarat) and another, 1996(11) SCC 603* has held that a person who has disabled himself from working by being involved in a crime even though acquitted, would not be entitled to back wages. It was held that the State cannot be made liable to pay for the period for which they could not avail the services of an employee. In similar case, in the matter of *Reserve Bank of India v. Bhopal Singh 1994 (1) SCT 505*, the Supreme Court has held that in case an employee is absent for reasons of his own involvement and does not discharge duties, the bank

cannot be saddled with the liability to pay his salary and allowances for that period. In **Raj Narain Vs Union of India** Civil Appeal No 3339 Of 2019 decided on 1.4.2019, the Supreme Court has held as under:

“6. The decision of Ranchhodji Chaturji Thakore (supra) was followed by this Court in Union of India and Others v. Jaipal Singh (supra) to refuse back wages to an employee who was initially convicted for an offence under Section 302 read with Section 34 IPC and later acquitted by the High Court in a criminal appeal. While refusing to grant relief to the Petitioner therein, this Court held that subsequent acquittal would not entitle an employee to seek back wages. However, this Court was of the opinion that if the prosecution is launched at the behest of the department and the employee is acquitted, different considerations may arise. The learned counsel for the Appellant endeavored to distinguish the prosecution launched by the police for involvement of an employee in a criminal case and the criminal proceedings initiated at the behest of the employer. The observation made in the judgment in Union of India and Others v. Jaipal Singh (supra) has to be understood in a manner in which the department would become liable for back wages in the event of a finding that the initiation of the criminal proceedings was mala fide or with vexatious intent. In all other cases, we do not see any difference between initiation of the criminal proceedings by the department vis-a-vis a criminal case lodged by the police. For example, if an employee is involved in embezzlement of funds or is found indulging in demand and acceptance of illegal gratification, the employer cannot be mulcted with full back wages on the acquittal of the person by a criminal Court, unless it is found that the prosecution is malicious.”

10. Consequently, keeping in view the judgment rendered in **Jaipal**

Singh's case (supra) and other cases as referred to above, the petitioner herein who was involved in a criminal case of a private nature, though acquitted by the High Court, is not entitled to have his suspension period regularized and claim the said period to be spent as on duty and claim consequential benefits due, as he was facing trial under Section 302 IPC. The writ petition is, accordingly, dismissed.

February 23, 2023
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No