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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

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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. *231* /Ch.*59* /HPGC/ENG/HPU/C-2023

Dated: *06* /06/2023.

Subject: -

1. CWP No. 7333 of 2018 titled as Sunita Devi V/s UHBVNL & Ors.
2. LPA No. 749 of 2022 titled as Krishan Lal V/s UHBVNL & Ors.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of Memo No. 71/LB-2 (84) dated 19.05.2023 and Memo No. 13/LB-2 (232) dated 26.05.2023 alongwith copies of judgments dated 10.03.2023 & 21.02.2023 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

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

Endst. No. *231/Ch.59* / HPGC/ENG/HPU/C-2023

Dated: *06* /06/2023

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 10.03.2023 & 21.02.2023 alongwith office memos dated 19.05.2023 & 26.05.2023 (**copies enclosed**) on the official website of HPGCL, please.

DA/As above.

[Signature]
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
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Telephone No. - 0172-2560769, 0172-2571841

(57)

To

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

Memo No. 71123-2 (84)

Dated: 19.05.2023

Subject: CWP No. 7333 of 2018 titled as Sunita Devi V/s UHBVN & Ors.

With reference to the subject cited matter, it is stated that Initially Smt. Sunita Devi-the petitioner herein, was offered an appointment on ex-gratia on account of death of her husband, but instead of opting for the said appointment, she claimed appointment for her brother-in-law (Devar), which was denied by the authorities since the brother of the deceased did not fall within the definition of the family.

The son of the petitioner was aged about three years and six months at the time of death of his father and had attained majority approximately in the year 2011 and sought appointment in the year 2014. The petitioner filed writ petition in the year 2018 claiming ex-gratia appointment for her son.

The Hon'ble High Court vide judgment dated 10.03.2023 has dismissed the petition. The operative part of judgment dated 10.03.2023 is given here under:-

"The Supreme Court in **Umesh Kumar Nagpal versus State of Haryana. (1994) 4 SCC 138.**) has settled the law regarding compassionate appointment. It has been held therein that the compassionate appointment is given only to get over the death of the bread earner in that point in time and is only an exception and not the normal mode of recruitment. The compassionate appointment is a means to overcome the extreme financial hardship that a family member of the deceased and the bread earner faces on his demise. In the instant case, petitioner-Sunita Devi was advised to apply for herself, but she failed to do so and kept silent and, therefore, a presumption can be drawn that she was able to make both ends meet. Even the son of the deceased applied for compassionate appointment well after having attained the age of majority, which would again lead the Court to conclude that the extreme hardship had been tided over."

It is an important judgment on the point that the compassionate appointment is given only to get tide over the death of the bread earner, at that point in time and is only an exception and not the normal mode of recruitment. The above judgment be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 10.03.2023 passed by Hon'ble High Court. A complete copy of judgment dated 10.03.2023 is enclosed herewith for ready reference.

This issue with the approval of L.R.
DA/As above

Diary No. 707...Admn/rectt.

Dated.....26/05/23

Law Officer,
HPU, Panchkula.

CC:-

1. The XEN/IT, Deputy Secretary/IT/Technical, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to host the judgment dated 10.03.2023 (copy enclosed) on the website of their utility.

2. The XEN/OP Divn., UHBVN, Kurukshetra.

DA: As above

Memo No. 3540

26/05/23

DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt.

CE/Admn.,

AMH
26/05/23
26/5

CWP-7333-2018

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208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7333-2018
Date of decision: 10.03.2023

SUNITA DEVI

...Petitioner

VERSUS

UHBVNL AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Hitesh Pandit, Advocate and
Ms. Suman Rani, Advocate for the respondents.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of mandamus directing the respondents to grant ex-gratia appointment on the death of the husband of the petitioner, as per the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, to the son of the deceased.

2. In brief, the facts as stated are that the husband of the petitioner Late Satish Kumar, Assistant Lineman was working with the respondent-Nigam at Operation Sub-Division, Ladwa and died on 03.07.1996 while on duty. The petitioner applied for appointment on Class-IV post but the same was denied as per the prevailing policies formulated by the Government. Thereafter, the petitioner filed *CWP No.15240 of 2000*, titled as *Sunita Rani and another versus State of Haryana and others*, seeking appointment while also stating that

the legal notice had been served upon the respondents, which was still pending consideration. The said writ petition was disposed of on 09.11.2000 by the Division Bench of this Court directing respondent No.3 to decide the representation/legal notice filed by the petitioners, within a period of three months. The son of the petitioner namely Varinder then sent a legal notice on 22.03.2014, asking for appointment on compassionate ground. The said legal notice was duly replied to stating that the record of late Satish Kumar stands transferred to UHBVNL. Consequently, another legal notice dated 12.05.2014 was sent by the son of the deceased to the respondents, which has not been replied to. Hence, the instant writ petition.

3. Learned counsel appearing on behalf of the petitioner would contend that the family of the deceased is in extreme financial distress due to the loss of deceased, who was the bread earner of the family. It is submitted that on 28.02.2003, the State Government has issued a notification and framed rules to regulate the compassionate appointment by way of ex-gratia financial assistance of ex-gratia appointment, which permits compassionate appointment to be given to the family member of the deceased to tide over an emergency situation. Despite several legal notices having been served upon the respondents, no financial assistance of ex-gratia appointment has been given to the petitioner, which has led to the filing of the instant writ petition.

4. Learned counsel appearing on behalf of the respondents would submit that initially Smt.Sunita Devi-the petitioner herein, was offered an appointment on ex-gratia on account of death of her husband, but instead of opting for the said appointment, she claimed appointment for her brother-in-law (Devar), which request was denied by the authorities since the brother of the

deceased did not fall within the definition of the family. It is submitted that the petitioner herein cannot claim ex-gratia appointment as the case of the petitioner would fall under the Haryana Compassionate Assistance of the Dependents of Deceased Government Employees Rules, 1996. It is also argued that the earlier writ petition was filed by the petitioner and her brother-in-law (Devar), which was disposed of with a direction by the Division Bench of this Court to consider their claim within a period of three months. The prayer in the said writ petition was for giving ex-gratia appointment only to the brother-in-law of the petitioner, which could not be acceded to as the brother did not fall within the definition of the term family. It is further submitted that the son of the petitioner was aged about three years and six months at the time of death of his father and had attained majority approximately in the year 2011 and, thereafter, served legal notice seeking appointment in the year 2014. The petitioner filed the present position in the year 2018 claiming ex-gratia appointment for her son and, therefore, the writ petition is not sustainable.

5. I have heard learned counsel for the parties, and with their able assistance, have gone through the pleadings of the case.

6. The facts are not in dispute to the extent that Satish Kumar passed away on 03.07.1996 and, thereafter, his widow moved an application seeking ex-gratia appointment for her brother-in-law (Devar) i.e. the brother of the deceased. This request was declined by the respondent-Nigam vide its letter dated 29.01.1998 and at the same time she was advised to seek employment for herself, to which there was no response. Thereafter, the petitioner herself along with her brother-in-law approached this Court by way of filing CWP No.15240 of 2000, with a prayer for issuance of a writ in the nature of mandamus

directing the respondents to appoint petitioner No.2 (brother-in-law of the petitioner herein) under ex-gratia scheme without disclosing therein that the matter had already been considered and employment in favour of brother-in-law could not be offered as the brother of the deceased does not fall under the term family of the deceased. Even the legal notices served by the son of the deceased were served well beyond the period after he had attained majority.

7. The the Supreme Court in Umesh Kumar Nagpal versus State of Haryana, (1994) 4 SCC 138, has settled the law regarding compassionate appointment. It has been held therein that the compassionate appointment is given only to get over the death of the bread earner in that point in time and is only an exception and not the normal mode of recruitment. The compassionate appointment is a means to overcome the extreme financial hardship that a family member of the deceased and the bread earner faces on his demise. In the instant case, petitioner-Sunita Devi was advised to apply for herself, but she failed to do so and kept silent and, therefore, a presumption can be drawn that she was able to make both ends meet. Even the son of the deceased applied for compassionate appointment well after having attained the age of majority, which would again lead the Court to conclude that the extreme hardship had been tided over.

8. Consequently, the instant writ petition, being devoid of any merit, is hereby dismissed.

10.03.2023
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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(58)

To

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

Memo No. 13/LB-2 (232)

Dated: 26.05.2023

Subject: LPA No. 749 of 2022 titled as Krishan Lal V/s UHBVN & Ors.

With reference to the subject cited matter, it is stated that after retirement the petitioner has filed writ petition challenging the seniority list of HP.G-II issued in the year 1993 and seniority list of Helper grade-I issued in the year 2003. The Hon'ble High Court vide order dated 18.07.2022 dismissed the writ petition. The petitioner filed LPA No. 749 of 2022 challenging the order passed in the writ petition. The Hon'ble High Court vide judgment dated 21.02.2023 dismissed LPA. The operative part of judgment dated 21.02.2023 is reproduced here under: -

"In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal, being bereft of merit, is accordingly dismissed."

It is an important judgment on the issue that seniority list cannot be challenged after prolonged period; when no objection was raised by the aggrieved employee. The above judgment be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 21.02.2023 passed by Hon'ble High Court. A complete copy of judgment dated 21.02.2023 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As above

Law Officer,
HPU, Panchkula.

CC:-

1. The XEN/IT/Deputy Secretary/Technical, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to host the judgment dated 21.02.2023 (copy enclosed) on the website of their utility.
2. The XEN/OP Divn., UHBVN, Ambala Cantt.

DA: As above

Diary No. 720 Xen/Rectt.
Dated. 30/5/23

Memo No. 3599
Dated. 30/5/23
DS/Estt.
US/NGE
DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt

LPA-749-2022 (O&M)

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2023:PHHC:045789-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-749-2022 (O&M)
Date of Decision: 21.02.2023

Krishan Lal

.....Appellant

Versus

Uttar Haryana Bijli Vitran Nigam Limited, Panchkula, and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Rajender Singh Malik, Advocate,
for the appellant.

ARUN PALLI, J.

This is an intra court appeal, under Clause X of the Letters Patent, against an order and judgment dated 18.07.2022, vide which the writ petition preferred by the appellant was dismissed.

The appellant, before the Writ Court, had prayed for the following substantive relief:-

“Writ Petition under Articles 226/227 of the Constitution of India praying for issuance of writ of Mandamus or any other appropriate writ order or directions to the respondents to withdraw the orders issued by memo No Ch-75/EP-7194 dated 24.09.2020 (Annexure P-9/A) vide which Respondent No 5 intimated that as per seniority certificate Sh. Brahmchari is senior to the petitioner, though on the bases of Pay detail sent by XEN Steel Workshop, UHBVN, Panipat (Annexure P-1.) and to issue seniority certificate against Sh. Brahamchari, Lineman to the petitioner for Work Charge T/Mat, Regular T/mate, HG-II,



HG-I and Lineman

AND/OR

To make necessary orders for correction in seniority list prepared for regularization of work charge employees in the year 1988, the tentative seniority list of Helper Gr. II ending 31.03.93 circulated vide memo No Ch 5507.12 dated 26.4.19 of Chief Engineer/Workshop whereby name of the petitioner is placed at Serial No. 240 showing his date of joining as Work Charge as 01.07.1982 whereas his date of joining in service was 08/1980 as verified by his initial office (i.e. XEN. Steel Structure Workshop Panipat) where the fact of joining originally found on 01.08.1980, means prior to his junior named Sh. Brahmchari. The subsequent Seniority lists also needs to be modified showing petitioner to be senior to respondent No 8 accordingly.

AND/OR

to re-fix the pay of the petitioner at par with his junior named Brahmchari (Retd. Lineman) at the post of T/Man (Work-charge) who was appointed in Oct 1988 (i.e. Rs. 870/- in spite of Rs. 786/-), same pay at par at the post of regular T/Mate by regularization of his service with effect from 12.10.1988 when his junior Brahmchari was made regular and to other posts by modifying the seniority lists accordingly.

AND/OR

To revise pay and pension of the petitioner by promoting him earlier to promotion of his junior employee named Brahmchari LM (Retd) and to remove the pay anomaly.

AND/OR

To pay the arrears of pay, pensionary benefits and pension alongwith 18% interest to the petitioner by fixing his pay at par with Brahmchari, LM (Retd.) for the post of HG-II, HG-I and Lineman till 31.01.2018 (the date of retirement of Brahmchari LM Retd.) and whereas the petitioner retired on a higher post as Forman."



Learned counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: the appellant was appointed as T-Mate on work-charge/daily wages in the first week of August, 1980, in the office of Executive Engineer Steel Structure Workshop, HVPNL, Panipat. Whereas, respondent No.8 joined service as Store Attendant on work charge/daily wages on 19th September, 1980. Services of both, the appellant as also respondent No.8, were regularized as T-Mate on 12.10.1998 and 06.10.1988, respectively. He submits that in the tentative seniority list of Helper Grade II, the date of entry into service of the appellant was wrongly mentioned as 01.07.1982, though he had joined in the first week of August, 1980. Resultantly, he was positioned at serial number 240, whereas, name of respondent No.8 was reflected at serial number 102 in the said seniority list. It is urged that the appellant had retired from service on 31.05.2019 as Assistant Foreman (AFM), one post above respondent No.8, who retired as Lineman on 31.01.2018. Thus, at the time of his superannuation from service, he was drawing Rs.42,300/- per month. Therefore, the seniority list is required to be modified showing appellant to be senior to respondent No.8, to fix his pay at par with his junior and to revise his pay and pension by promoting him from an earlier date, when his junior (respondent No.8) was promoted.

We have heard learned counsel for the appellant and perused the records.

Concededly, services of respondent No.8 were regularized as T-Mate on 06.10.1988 in the pay scale of Rs.750-940, and he joined as such on 12.10.1988. Whereas, services of the appellant were regularized later on 12.10.1988, in the same pay scale and he joined on 14.10.1988. It is not in dispute either that appellant, during his service, never questioned this position or



claimed regularization from an earlier or the same date. Further, in the tentative seniority list of the Helper Grade II, ending on 31.03.1993, the appellant was concededly shown junior to respondent No.8. It would be apposite to point out that, in terms of memo dated 26.04.1993 (P-4), vide which the said tentative seniority list was circulated, any person aggrieved against the seniority position assigned to him/her could submit a representation within a month from the issuance of the said memo. It was also observed that in case no such representation would be received, it would be deemed that the employees had no grouse. It is not the case of the appellant either, that he had ever expressed any such grievance qua the position assigned to him in the seniority list of Helper Grade II. Likewise, even the seniority list of Helper Grade I, w.e.f. 01.01.2003, showed the appellant at serial number 57, whereas, respondent No.8 was placed at serial number 55, wherein, again the date of joining of the appellant on work charge/daily wages was recorded as 01.07.1982. Significantly, even vide memo dated 14.11.2007 (P-5), whereby the said list was circulated, an opportunity was afforded to all concerned, in case they were aggrieved by, to represent to the authorities within a month, failing which, it would be presumed that they had accepted the position assigned to them and had no grouse in this regard. Again, there is nothing on record to indicate that the appellant ever made any grievance in this regard. Accordingly, vide memo dated 06.08.2021 (P-8), respondent No.4 had clarified that respondent No.8 was senior to the appellant, as per the seniority list circulated vide memo dated 14.11.2007. Resultantly, claim of the appellant was rejected by the authorities, vide order dated 24.09.2021. As indicated above, the appellant had retired from service on 31.05.2019. While he was in service, neither did he question the date from which he was regularized as T-Mate, nor he challenged the tentative seniority lists of Helper Grade-II and



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2023:PHHC:045789-DB

Helper Grade-I (w.e.f. 01.01.2003). ▲

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal, being bereft of merit, is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

21.02.2023
AK Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes

Neutral Citation No: 2023:PHHC:045789-DB