



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

HARYANA POWER GENERATION CORPORATION LIMITED

Regd. Office: C-7, Urja Bhawan, Sector-8, 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. 423 /Ch. 98/HPGC/ENG/HPU/C-2023

Dated: 11/10/2023.


- Subject: -
1. CWP No. 32394 of 2019 titled as Bachan Singh Bhandari & Ors Vs SOH & Ors.
 2. CWP No. 6122 of 2016 titled as Kitabo Devi Vs DHBVN & Ors .
 3. CWP No. 17344 of 2022 titled as Mohit Vs DHBVN & Ors.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of Memo No. 59/LB-2(187) dated 24.08.23 and Memo No. 43/LB-2(55) dated 21.09.23 and Memo No. 61/LB-2(115) dated 03.10.23 along with copies of judgments dated 23.08.22, 27.07.23 & 24.08.2023 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-98/HPGC/ENG/HPU/C-2023/423

Dated: 11/10/2023

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 upload the ibid judgments dated 23.08.22, 27.07.23 & 24.08.2023 along with office Memo dated 24.08.23, 21.09.23 and 03.10.23 (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.

207/XEN/IT
13-10-2023

16/10
2023



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

HARYANA POWER GENERATION CORPORATION LIMITED

Regd. Office: C-7, Urja Bhawan, Sector-6, Panchkula
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Memo No. 423/Ch. 98/HPGC/ENG/HPU/C-2023

Dated: 11/10/2023.

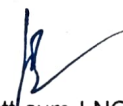
- Subject: -
1. CWP No. 32394 of 2019 titled as Bachan Singh Bhandari & Ors Vs SOH & Ors.
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 3. CWP No. 17344 of 2022 titled as Mohit Vs DHBVN & Ors.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of Memo No. 59/LB-2(187) dated 24.08.23 and Memo No. 43/LB-2(55) dated 21.09.23 and Memo No. 61/LB-2(115) dated 03.10.23 along with copies of judgments dated 23.08.22, 27.07.23 & 24.08.2023 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-98/HPGC/ENG/HPU/C-2023/423

Dated: 11/10/2023

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 upload the ibid judgments dated 23.08.22, 27.07.23 & 24.08.2023 along with office Memo dated 24.08.23, 21.09.23 and 03.10.23 (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.hvprn.org.in, E-mail - lr@hvprn.org.in

Telephone No. - 0172-2560769, 0172-2571841

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. 59/LS-2(187)

Dated: 24.08.2023

Subject: CWP No. 32394 of 2019 titled as Bachan Singh Bhandari & Ors V/s State of Haryana & Ors.

With reference to the subject cited matter, it is stated that the petitioner have filed writ petition to restore the deductions made on account of re-fixation of the pay and also restoring the deductions made from payment of Additional Dearness Allowances w.e.f. 01.05.1973 on ward. The Hon'ble High Court vide judgment dated 23.08.2022 has dismissed the petition filed by the petitioners. The operative part of judgment dated 23.08.2022 is given here under: -

"Keeping in view the above, as the similar prayer as being raised by the petitioners in these petitions already stand rejected by the Coordinate Bench of this Court, which order of the Coordinate Bench in Mahabir Singh's case (supra) has already attained finality as the LPA No.255 of 2021 has already been dismissed, no ground is made out to grant the prayer as raised in the present petitions."

In CWP No.1426 of 2020 titled as Mahabir Singh and others versus State of Haryana and others the Hon'ble High Court vide order dated 20.02.2022 dismissed the bunch of writ petitions on delay and laches and also rejected the contention of recurring cause of action.

It is an important judgment on the issue of delay & laches and also that such deductios are not recurring cause of action. The above judgment be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 23.08.2022 passed by Hon'ble High Court. A complete copy of judgment dated 23.08.2022 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As above

Law Officer,
HPU, Panchkula.

CC:-

1. The C.E./IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to host the judgment dated 23.08.2022 (copy enclosed) on the website of their utility.

Memo No. 5854
Dated 01/09/23
DS/Estt.
DS/INCE
DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt.

CE/Admn.,

Diary No. 1167 XEN/Rectt.

Dated 01/09/23

Asst-1/LS
4/9/23
S. P. Singh
12/19

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(236)

CWP-12164-2019

Date of Decision : August 23, 2022

Mool Chand and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(236-2)

CWP-28891-2019

Yadvender Singh and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(236-3)

CWP-29840-2019

Kurda Ram and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(236-4)

CWP-31264-2019

Raj Kumar and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

CWP-12164-2019 and other connected cases

2

(236-5)

CWP-31786-2019

Jagdish Kumar and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(236-6)

CWP-32394-2019

Bachan Singh Bhandari and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(236-7)

CWP-34153-2019

Ramesh Chander Arora and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(104+236-8)

**CM-8030-CWP-2021 in/and
CWP-37608-2019**

Dhani Ram and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

CWP-12164-2019 and other connected cases 3

(236-9) CWP-37501-2019

Raj Kumar .. Petitioner

Versus

State of Haryana and others .. Respondents

(236-10) CWP-9471-2021

Mohinder Singh and others .. Petitioners

Versus

State of Haryana and others .. Respondents

(239) CWP-27890-2019

Narender Kumar Jain .. Petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present: Mr. Pardeep Sehrawat, Advocate, for
Mr. Vikram Singh Sheoran, Advocate, for the petitioners
in CWP No.12164 and 28891 of 2019.**

**Mr. Sandeep Thakan, Advocate, for the petitioners
in CWP Nos. 29840, 31264, 32394, 34153 37608 of 2019
and CWP No.9471 of 2021.**

**Mr. Kamaldip Singh Sidhu, Advocate, for the petitioners
in CWP No.31786 of 2019.**

**Mr. Amit K. Jain, Advocate, for
Mr. S.K. Bhardwaj, Advocate, for the petitioner
in CWP No.37501 of 2019.**

Mr. Ravi Dutt Sharma, Deputy Advocate General, Haryana.

Mr. Gaurav Jindal, Addl. A.G., Haryana,
in CWP-27890-2019.

Ms. Aditi Sharma, Advocate, for
Mr. C.S. Bakhshi, Advocate, for the respondents
in CWP No.29840 of 2019 and
for respondent No. 4 in CWP No.27890-2019.

Ms. Suman Rani, Advocate, for
Mr. Hitesh Pandit, Advocate, for respondent No.4
in CWP No.34153 of 2019.

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, 11 writ petitions, the details of which have been given in the heading of the order, are being disposed of as all the petitions involve the same question of law on similar facts.

CM-8030-CWP-2021 in CWP-37508-2019

As prayed for, the application is allowed.

Written statement on behalf of respondents No. 1 and 2 qua petitioners No. 2 to 16, 18 to 30, 32, 42 to 45, 48, 52, 53 and 55 to 57 is taken on record.

CWP-12164-2019 and other connected cases

Learned counsel for the parties agree that the question of law raised in the present petitions is covered by the decision rendered by a Coordinate Bench of this Court in *CWP No.1426 of 2020 titled as Mahabir Singh and others vs. State of Haryana and others decided on 20.02.2020* wherein, the similar claim raised has already been rejected and the LPA filed against the said decision has also been dismissed being *LPA No.255 of 2021 titled Jai Singh (Retd.) Inspector vs. State of Haryana and others, decided on 04.03.2021.*

Keeping in view the above, as the similar prayer as being raised by the petitioners in these petitions already stand rejected by the Coordinate Bench of this Court, which order of the Coordinate Bench in ***Mahabir Singh's case (supra)*** has already attained finality as the LPA No.255 of 2021 has already been dismissed, no ground is made out to grant the prayer as raised in the present petitions.

Accordingly, all the writ petitions are dismissed.

A photocopy of this order be placed on the files of other connected cases.

August 23, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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



HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109
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Website : www.hvpn.org.in, E-mail: companysecy@hvpn.org.in
Correspondence E-mail - lr@hvpn.org.in, legalofficerdhbvn1@gmail.com
Telephone No. - 0172-2560789, 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. 61 /LB-2(115)

Dated: 03.08.2023

Subject: CWP No. 17344 of 2022 titled as Mohit Vs. DHBVN & Ors.

Attention is drawn to judgment dated 24.08.2023 passed in subject cited case vide which the Hon'ble High Court dismissed the writ petition of the petitioner.

The operative part of judgment dated 24.08.2023 is given here under:-

"Learned counsel for respondent Nos.2 to 4 contended that the policy dated 02.08.2019 (Annexure P-2) relied upon by the petitioner is not applicable to the case of the petitioners whose claim already stands settled as per the Haryana Compassionate Assistance, Rules 2006.

In view of the above submissions made and in light of the judgment rendered by Supreme Court in Civil Appeal No. 8842-8855 of 2022 titled as State of West Bengal vs. Debabrata Tiwari and Others, wherein it has been held that compassionate appointment is not a vested right to be claimed under Article 226/277 of the Constitution of India and if it needs to be claimed then it has to be made to the appropriate authorities within the reasonable time without there being any delay or laches on the part of the petitioner.

Hence, no ground is made out for compassionate appointment/financial assistance, since the basic principle of granting any financial assistance or the compassionate appointment to the family of deceased is to provide help in meeting out hardship on account of untimely death of the employee.

Considering the judgments wherein Compassionate Financial Assistance or appointment has been made available under various schemes from time to time by the State government. In the present case, the petitioners have already availed the benefits as applicable to them as per 2006 rules and now they cannot be permitted to avail the benefits under the new 2019 policy which explicitly bars the case of the petitioners.

File No. 6748
05/10/23
General M & TRG

CE/Admn.

[Handwritten signatures]

VDC

Diary No. 1368 Xen/Rectt.
Dated 05/10/23

In view of aforesaid discussion, this Court does not find any merit in the present petition and the same is dismissed with no order as to costs."

It is an important judgment on the issue that the petitioners have already availed the benefits as applicable rules 2006 and now they cannot be permitted to avail the benefits under the new 2019 policy which explicitly bars the case of the petitioners.

The above judgment be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 24.08.2023 passed by Hon'ble High Court. It is also requested to direct the concerned CE/IT and SE/IT UHBVN to host the judgment dated 24.08.2023 on the website of concerned Power Utility. A complete copy of judgment dated 24.08.2023 is enclosed herewith for ready reference.

This issues with the approval of Ld. LR.

DA/as above

Dingla
22/10/23
Legal Officer,
HPU, Panchkula.

CC:-

1. The CE/IT, UHBVN, Panchkula and SE/IT, DHBVN, Hisar, Panchkula for hosting on website.
2. The CE OP Circle, UHBVN, Panchkula & Rohtak.
3. The CE OP, DHBVN, Hisar.

CWP-17344-2022
2023:PHHC:111493

- 1-

244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17344-2022
DECIDED ON: 24th AUGUST, 2023

MOHIT AND OTHERS

.....PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Rahul Gautam, Advocate for
Mr. Deepak Vashishth, Advocate
for the petitioners.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Udit Garg, Advocate
for respondent Nos.2 to 4.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked for issuance of a writ in the nature of mandamus for appointment of petitioner No.1 on the basis of ex-gratia policy dated 02.08.2019 and also to grant compassionate financial assistance/appointment to the dependent of the family member of a government employee who died while in service.

2. The case of the petitioners as enumerated from the pleadings in the writ petition is that the father of petitioners No.1 & 3 unfortunately died on 28.08.2008 while serving at UHBVNL. In support thereof, a photocopy of the death certificate of the deceased employee is attached as Annexure P-1 in the

CWP-17344-2022
2023:PHHC:111493

- 2-

present petition. At the time of death of the deceased employee, the age of petitioner No.1, who is the son of deceased employee, was 12 years whereas the age of petitioner No.3, who is the daughter of the deceased employee, was 11 years, thus, none of them was eligible for compassionate appointment. It is further the case of petitioners that an amount of Rs.25,000/- was accepted on account of compassionate financial assistance by the wife of the deceased employee on 23.06.2009. Now petitioner No.1 has applied for compassionate appointment on account of death of his father under the ex-gratia policy issued on 02.08.2019 and submitted a representation in this regard on 04.09.2020 (Annexure P-3).

3. Learned counsel for the petitioner has relied upon the judgment passed by this Court in CWP-23170-2018 titled as "Sudhir Vs. State of Haryana and others". The relevant part of the said judgment is reproduced as under:-

" It is indeed a very unfortunate case where the petitioner had already lost his mother. He thereafter lost his father who was in government service when the petitioner barely 9 years of age. It would, thus, also be equitable that the petitioner be considered for compassionate appointment in terms of the Rules.

Consequently, the petition is allowed. The case of petitioner would be considered for compassionate appointment in terms of 2003 Rules. The delay in applying stands condoned. The needful shall be done within two months. In the event of petitioner being offered appointment on compassionate ground, he would reimburse his share of ex-gratia amount which he had received."

4. In the present case, notice of motion was issued on 24.08.2022 by this Court considering the sole assertion raised at that time that only Rs.25000/- has been accepted by petitioner No.2 who is the mother petitioners No.1 & 3 who were minor at that time.

5. A short reply by way of an affidavit Sh. Joginder Singh, Executive

Engineer was filed wherein in para 5 has been categorically recorded that a sum of Rs.25,000/- ex-gratia amount was sanctioned vide CE/OP Rohtak memo No.312 dated 23.06.2009, which has been accepted by petitioner No.2 in particular. The attention of this Court has also drawn to the office order No.129 dated 09.03.2019 (Annexure R-1) whereby it was ordered that in terms of provision contained in the Haryana Compassionate Assistance to the dependents of deceased Government Employees Rules 2006 adopted by the UHBVNL vide memo No. Ch.86/UH/Pen/Loose dated 07.09.2006 and memo No. Ch.98/UH/Pen/Loose dated 13.03.2007, sanction was accorded for the grant of compassionate assistance by way of ex-gratia monthly assistance in favour of petitioner No.2-Nirmal Saini who is wife of Late Sh. Sunil Kumar, LDC which shall be continue on monthly basis equal to the pay and other allowances drawn by the deceased in normal course. Apart from that the family of the deceased shall be eligible for family pension as per rules after completion of superannuation period.

6. Learned counsel for respondent Nos.2 to 4 contended that the policy dated 02.08.2019 (Annexure P-2) relied upon by the petitioner is not applicable to the case of the petitioners whose claim already stands settled as per the Haryana Compassionate Assistance, Rules 2006.

7. In view of the above submissions made and in light of the judgment rendered by Supreme Court in *Civil Appeal No. 8842-8855 of 2022 titled as State of West Bengal vs. Debabrata Tiwari and Others*, wherein it has been held that compassionate appointment is not a vested right to be claimed under Article 226/277 of the Constitution of India and if it needs to be claimed then it has to be made to the appropriate authorities within the reasonable time without there being

any delay or laches on the part of the petitioner.

8. Hence, no ground is made out for compassionate appointment/financial assistance, since the basic principle of granting any financial assistance or the compassionate appointment to the family of deceased is to provide help in meeting out hardship on account of untimely death of the employee.

9. Considering the judgments wherein Compassionate Financial Assistance or appointment has been made available under various schemes from time to time by the State government. In the present case, the petitioners have already availed the benefits as applicable to them as per 2006 rules and now they cannot be permitted to avail the benefits under the new 2019 policy which explicitly bars the case of the petitioners.

10. In view of aforesaid discussion, this Court does not find any merit in the present petition and the same is dismissed with no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

24th AUGUST, 2023
sham

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



HARYANA VIDYUT PRASARAN NIGAM LIMITED

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109
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Correspondence E-mail - lr@hvvn.org.in, legalofficerdhbvn1@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. 43 /LB-2(55)

Dated: 21.09.2023

Subject: CWP No. 6122 of 2016 titled as Kitabo Devi Vs. DHBVN & Ors.

Memo No. 6576
Date: 26/09/23
DS/Genl.
US/N
DS/General
DS/T&M
XEN/PR&TRG
XEN/Recd.

CE/Admn.,

Attention is drawn to judgment dated 27.07.2023 passed in subject cited case vide which the Hon'ble High Court dismissed the writ petition of the petitioner.

The operative part of judgment dated 27.07.2023 is given here under:-

"Hence, no ground is made out for compassionate appointment/financial assistance, since the basic principle of granting any financial assistance or the compassionate appointment to the family of deceased is to provide help in meeting out hardship on account of untimely death of the husband of the petitioner, which accrued in the year 1995. Moreover, an application for compassion appointment can be considered only if the same is made within a period of three years from the death of the employee and the applicant should be more than 17 years of age. The petitioner was also granted lump-sum family pension as her son could not be given appointment, because he was only 12 years of age at the time of death of his father, which has fulfilled the object.

Now added with the aspect that after 21 years since the death of her husband, the petitioner has no right, which is badly time barred, in the light of facts and circumstances hereinabove.

Petition stands dismissed being devoid of merits."

It is an important judgment on the issue that compassionate appointment is not a vested right to be claimed under Article 226/227 of constitution of India. It has to be made to the appropriate authorities within the reasonable time without any delay and laches on the part of the petitioner.

The above judgment be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 27.07.2023 passed by Hon'ble High Court. It is also requested to direct the

Diary No. 1324 Xen/Recd.

Dated 26/09/23


[Handwritten signatures and initials]

CW

concerned CE/IT and SE/IT UHBVN to host the judgment dated 27.07.2023 on the website of concerned Power Utility. A complete copy of judgment dated 27.07.2023 is enclosed herewith for ready reference.

This issues with the approval of Ld. LR.

DA/as above


20/7/23
Legal Officer,
HPU, Panchkula.

CC:-

1. The CE/IT, UHBVN, Panchkula and SE/IT, DHBVN, Hisar, Panchkula for hosting on website.
2. The CE OP Circle, UHBVN, Panchkula & Rohtak.
3. The CE OP, DHBVN, Hisar.

CWP-6122-2016

-1-

101

2023:PHHC:095694

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6122-2016
DECIDED ON:27.07.2023

KITABO DEVI

.....PETITIONER

VERSUS

MANAGING DIRECTOR & ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Priyanka Vj, Advocate for
Mr. Amit Kumar Jain, Advocate for the petitioner.

Ms. Shivani Sahni, Advocate for
Mr. Saurabh Goel, Advocate for respondent No.4.

SANDEEP MOUDGIL, J (ORAL)

1. This Civil Writ Petition is preferred under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing of the impugned action of the respondent authorities in not granting the compassionate appointment to the petitioner being wife of deceased employee of the respondent Board and even not deciding the claim presented by the son of the petitioner now expired, as the petitioner has no other male member to look after her because the other children i.e., 5 daughters have already been married.

2. Learned counsel for the petitioner contends that husband of the petitioner was appointed as Assistant Line Man on 01.12.1970 and was promoted as lineman, who during the posting at Sub Division Garhi, Division Narwana, District Jind expired on 14.12.1995. Thereafter, the petitioner presented an application on 15.01.1996 before the respondent No.4 seeking compassionate appointment to her

son namely Ramesh Kumar, who was of 12 years of age at that time, but the application was never decided and on 21.09.2008, the son of the petitioner also passed away. Till date, that application has not been decided by the respondent-authorities to grant the employment to the dependant of the deceased under the ex gratia scheme.

3. He further contends that petitioner being an old lady, who has already lost her son and husband, is entitled for compassionate appointment/financial assistance.

4. Learned counsel appearing for respondent No.4 has referred to para 3 & 4 of the written statement, which reads as under:-

"3. That the contents of para 2 (wrongly numbered again) of the writ petition are wrong and vehemently denied. The son of the petitioner namely Sh. Ramesh Kumar was only 12 years old in the year 1995 and was only 15 years after 3 years of the death and therefore, no application for considering him for compassionate appointment after more than 5 years of the death of his father on attaining age of 17 years could have been considered. As per the existing instructions dated 1.10.1986, application for appointment could have been made within a period of 3 years from the date of death of an employee. The applicant should have been more than 17 years of age. The application for compassionate appointment of her son who was only 12 years of age at the time of death of her husband could not be considered as he was not covered under the existing instructions. Copy of the said decision dated 12.07.2000 was duly sent to the petitioner in year 2000 itself.

4. That the contents of para 4 of the writ petition are wrong and vehemently denied. It is wrong and denied that the answering respondents have denied any lawful benefit to the petitioner. It is pertinent to mention here that there was no provision of providing any financial assistance as per the policy prevailing at the time of death of

husband of the petitioner. Further, it is pertinent to mention here that the petitioner was paid lump-sum family pension."

5. Heard learned counsel for respective parties.
6. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., (i) to enable the family of the deceased to get over the sudden financial crisis. (ii) Appointment on compassionate grounds is not a source of recruitment.
7. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis. Since, compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependants of the deceased Government employee as a consequences of his death, a claim for compassionate appointment may not be entertained after lapse of of considerable period of time, since the death of the employee.
8. In *Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138*, the Apex Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependants of the deceased who is eligible for such employment. Mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public

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authority concerned has to examine the financial condition of the family of the deceased and only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

9. In view of the above submissions made and in light of the judgment rendered by Supreme Court in *Civil Appeal No. 8842-8855 of 2022 titled as State of West Bengal vs. Debabrata Tiwari and Others*, wherein the same principle as was held in Umesh Kumar Nagpal's case (supra) has been reiterated that compassionate appointment is not a vested right to be claimed under Article 226/277 of the Constitution of India and if it needs to be claimed then it has to be made to the appropriate authorities within the reasonable time without there being any delay or laches on the part of the petitioner.

10. Hence, no ground is made out for compassionate appointment/financial assistance, since the basic principle of granting any financial assistance or the compassionate appointment to the family of deceased is to provide help in meeting out hardship on account of untimely death of the husband of the petitioner, which accrued in the year 1995. Moreover, an application for compassion appointment can be considered only if the same is made within a period of three years from the death of the employee and the applicant should be more than 17 years of age. The

family of the

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petitioner was also granted lump-sum family pension as her son could not be given appointment, because he was only 12 years of age at the time of death of his father, which has fulfilled the object.

11. Now added with the aspect that after 21 years since the death of her husband, the petitioner has no right, which is badly time barred, in the light of facts and circumstances hereinabove.

11. Petition stands dismissed being devoid of merits.

(SANDEEP MOUDGIL)
JUDGE

27.07.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>

w