



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 CGM/Admn. & HR, DHBVN, Hisar.

Memo No. 512 - 2

Dated: 17.05.2023

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

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

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.

(JAISHREE THAKUR)
JUDGE

10.03.2023
Chetan Thakur

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