

 <p>HPGCL AN ISO: 9001, ISO: 14001 & OHSAS : 18001 CERTIFIED COMPANY</p>	<p>HARYANA POWER GENERATION CORPORATION LIMITED</p> <p>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</p>	 <p>HARYANA SWARNA UTSAV TRANSFORMING HARYANA - PROGRESSING HARYANA</p>
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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. 474 /Ch.109 /HPGC/ENG/HPU/C-2023

Dated: 17 /11/2023.

Subject: -

1. CWP No. 4883 of 2023 titled as Sh. Ramesh & ors Vs SOH &Ors.
2. CWP No. 3492 of 2022 titled as Bimla Devi Vs UHBVN & Ors.
3. CWP No. 7048 of 2023 titled as Parvesh Kumar Vs SOH &Ors.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of Memo No. 15/LB-2(39) dated 19.10.23 and Memo No. 15/LB-2(15) dated 31.10.23 and Memo No. 23/LB-2(32) dated 02.11.23 along with copies of judgments dated 29.09.23, 01.08.23 & 03.10.23 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-109 / HPGC/ENG/HPU/C-2023/474

Dated: 17 /11/2023

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 29.09.23, 01.08.23 & 03.10.23 along with office Memo dated 19.10.23, 31.10.23 and 02.11.23(**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.hvpn.org.in, E-mail: companysecy@hvpn.org.in
Correspondence E-mail - lr@hvpn.org.in, hvpngallofficer2@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. 15 /LB-2(39)

Dated: 19.10.2023

Subject: CWP No. 4883 of 2023 titled as Sh. Ramesh & others Vs State of Haryana & Others.

Attention is drawn to judgment dated 29.09.2023 passed in subject cited case vide which the Hon'ble High Court dismissed the writ petition.

The operative part of judgment dated 29.09.2023 is given here under:-

"Here, the lands under sale in the instant case, are undisputedly "shamlat deh", which vests in the Gram Panchayat concerned, for all intents and purposes. Moreover, the sale of the petition lands has evidently been made for the benefit of the inhabitants of the village, inasmuch as, for construction of a 220 KV powerhouse by the H.V.P.N.L. Prima facie, we do not find any evident violations in the sale of the petition lands, which has indeed been made after passing of resolutions (supra) by the Gram Panchayat concerned, besides has been properly channelized through the Deputy Commissioner concerned and ultimately, has been approved by the State Government in terms of the relevant rules. As a matter of fact, Rule 12(1)(ii) of the Rules of 1964 authorizes the Gram Panchayat concerned to make sale of "shamlat deh" land for the purposes of setting up infrastructure facilities etc., which are beneficent for the inhabitants of the village, at market rates. It would also be worthy recording here that market price, in terms of Rule 12(1)(ii) of the Rules of 1964, was also determined by the Deputy Commissioner concerned, thereby attaching sanctity of law to the sale.

However, if the petitioners yet have any grievance qua violation of any statutory provisions, they may recourse the alternative remedy, as available under Section 5B(2) of the Act of 1961. Since the present writ petition is a misconceived motion, therefore, the same is dismissed. However, liberty is reserved to

Memo No. 7460
Dated 03/11/23
DS/Estt.
US/NGE
DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt.

CE/Admn.,

UAC
M
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Diary No. 1550
Dated 03/11/23
Xen/Rectt.

the petitioners to access the competent authority by availing the remedy (supra). If the petitioners avail the remedy (supra) and make an application, the competent authority concerned shall make an expeditious decision thereon within six months from the date of its preferment. It is also expected that the competent authority concerned shall comply with the principles of natural justice in making a decision upon the application so preferred before it.

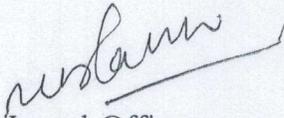
All pending application(s) stand disposed of accordingly”.

It is an important judgment on issue that in case land is sold/transferred to Nigam by Gram Panchyat for development of infrastructure facilities, then Gram Panchyat is competent to do so, as Rule 12(1)(ii) of Punjab Village Common Land (Regulation) Rules 1964 authorizes the Gram Panchayat concerned to make sale of “shamlat deh” land for the purposes of setting up infrastructure facilities etc., which are beneficent for the inhabitants of the village, at market rates. It would also be worthy recording here that market price, in terms of Rule 12(1)(ii) of the Rules of 1964, was also determined by the Deputy Commissioner concerned, thereby attaching sanctity of law to the sale.

The above judgment be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 29.09.2023 passed by Hon’ble High Court. It is also requested to host the Judgment dated 29.09.2023 on the website of concerned Power Utility. A complete copy of judgment dated 29.09.2023 is enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As Above


Legal Officer,
HPU, 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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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. 95/LB-2 (15) Dated: 31.10.2023

Subject: CWP No. 3492 of 2022 titled as Bimla Devi V/s UHBVN &Ors.

With reference to the subject cited matter, it is stated that the petitioner has filed the aforesaid writ petition to release the amount to the tune of Rs.2,50,000 as financial Assistance as per Haryana Compassionate Assistance to the Dependents of Deceased Government Employee's Rules, 2003 with 18% interest per annum on account of death of the only bread earner of the family.

The Hon'ble High Court vide judgment dated 01.08.2023 has dismissed the petition. The operative part of judgment dated 01.08.2023 is given here under:-

" In view of the above observation 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/ financial Assistance 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."

It is an important judgment on the point that compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased Government employee as a consequences of his death, a claim for compassionate appointment may not be entertained after lapse of considerable period of time, since the death of the employee.

It is, therefore, requested to circulate the judgment amongst the subordinate offices under your control for dismissal of similarly situated case by placing reliance on the aforesaid judgment. A copy of judgment dated 01.08.2023 is enclosed herewith for ready reference.

DA/As above


Law Officer,
HPU, Panchkula.

CC:-

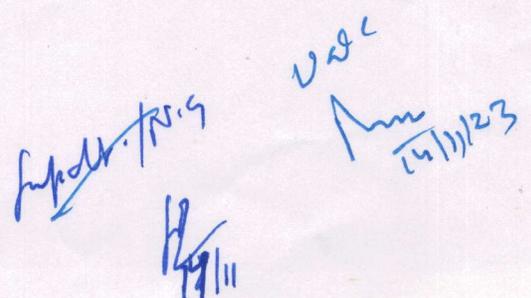
1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to host the judgment dated 01.08.2023 (copy enclosed) on the website of their utility.

DA: As above

Diary No. 1606 Xen/Rectt.
Dated. 14/11/23

Memo No. 7604
Dated. 28/11/23
DS/Estt.
US/NGE
DS/General
DS/T&M
XEN/HR&TRG
XEN/Rectt.


CE/Admn.


vsc
14/11/23

CWP-3492-2022

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2023:PHHC:105067

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3492-2022

DECIDED ON:01.08.2023

BIMLA DEVI

.....PETITIONER

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shivam Malik, Advocate for the petitioner.

Mr. Sehej Sandhawalia, Advocate for respondents.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India seeking directions to the respondents to release the amount to the tune of Rs. 2,50,000 as financial Assistance As per Haryana Compassionate Assistance to the Dependents of Deceased Government Employee's Rules, 2003 with 18% interest per annum on account of death of the only bread earner of the family.

2. Learned counsel for the petitioner contends that husband of the petitioner was appointed as Assistant Line Man on 30.10.2000 and has expired due to electric accident occurred on duty. Thereafter, petitioner applied for compassionate appointment for her son namely Sunil Kumar as per ex gratia policy applicable at the time of death. In the meantime on 28.02.2003, the State Government introduced Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules, 2003 and decided to give ex gratia appointment or lump sum ex gratia financial assistance of Rs.2.5 lakhs to the family

CWP-3492-2022

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of the deceased Government employee, if the appointment could not be given due to any reason.

3. He further contends that that the son of the petitioner made several representations but the respondents kept on avoiding the matter on one pretext or other.

4. Learned counsel for the respondents has asserted that the family pension was released to the petitioner vide PPO No. 125, dated 04.05.2001, as is evident from Annexure R-1. It is further asserted that a civil suit filed by the son of the petitioner for grant of relief of compassionate appointment under ex-gratia scheme already stands dismissed vide judgment dated 31.08.2013 (Annexure R-1) and 09.08.2017 (Annexure R-3). He further assists the court by referring to his written reply wherein it has been specifically stated in para 3 that the petitioner approached the respondents on 05.08.2020 for the grant of financial assistance and due some lacuna in the application the same could not be processed and the same was intimated to the petitioner in the same year. Moreover the petitioner submitted her affidavit dated 27.04.2022 in the office of respondent on 29.04.2022 and thereafter by doing required formalities respondents authorities handed over the cheque dated 26.07.2022 amounting to Rs.2,50,000 to the petitioner, thus there is no delay on the part of the respondents and petitioner is not entitled for any interest as claimed by her in the present petition.

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

CWP-3492-2022

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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 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

CWP-3492-2022

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be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

9. Coming back to the present case in hand wherein the petitioner has been paid all the benefits including pension as well as financial assistance of Rs. 2,50,000 which she is claiming through this petition stands paid to the petitioner. The another prayer regarding the interest part which she is claiming hold no ground to be allowed as respondents authorities have specifically sated that the delay is on the part of the petitioner in approaching respondents. Also, the principle underlying the post of compassionate appointment is to meet the immediate financial hardship faced by the family of the deceased employee which in present case to the mind to court is not there as husband of the deceased passed in 2000 and ever since the petitioner had survived with the living standards.

10. In view of the above observation 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/ financial Assistance 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.

11. Petition stands dismissed being devoid of merits.

(SANDEEP MOUDGIL)
JUDGE

27.07.2023

Meenu

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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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. 23 /LB-2(32)

Dated: 02.10.2023

Subject: CWP No. 7048 of 2023 titled as Parvesh Kumar V/s State of Haryana & Ors.

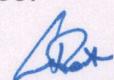
With reference to the subject cited matter, it is stated that the Hon'ble High Court vide order dated 13.12.2018 disposed of RSA No.157 of 2016 by holding that the regular appointment offered to the appellant Parvesh Kumar has been accepted by him.

Thereafter, the petitioner filed the writ petition for regularization of services since 2004 i.e. the date when the persons were junior to him have been regularized. The Hon'ble High Court vide judgment dated 03.10.2023 has dismissed the writ petition observing that the appointment offered to the petitioner had been accepted by him.

It is an important judgment on the issue that the claim of the employee already settled and accepted cannot be re-agitated by way of separate litigation.

It is, therefore, requested to circulate the judgment amongst the subordinate offices under your control for dismissal of similarly situated case by placing reliance on the aforesaid judgment. A copy of judgment dated 03.10.2023 is enclosed herewith for ready reference.

DA/As above


Law Officer,
O/o L.R./ HPU, Panchkula.

CC:-

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to host the judgment dated 03.10.2023 (copy enclosed) on the website of their utility.
2. The S.E. (OP) Circle, UHBVN, Ambala. Ref: ch-29/EP-5203 dated 07.06.23.

DA: As above.

Memo No.	7601
Dated	02/10/23
DS/Estt.	
US/NGE	
DS/General	
DS/T&M	
XEN/HR	RG
XEN/Rec.	

Diary No. 1607.Xen/Rec.
Dated 14/11/23


VSC
14/11/23


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2023:PHHC:127964

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-7048-2023

DECIDED ON: 03.10.2023

PARVESH KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Savda, Advocate for
Mr. N.C. Manchanda, Advocate
for the petitioner.

Ms. Dimple Jain, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance a writ in the nature of mandamus seeking regularization of services since 2004 as alleged to have been recommended by the Managing Director, UHBVN Limited/respondent No...2 vide its letter dated 23.08.2006 and 04.01.2007 (Annexure P-7 collectively) and from the date when the persons were junior to him have been regularised.
2. The petitioner has also sought refixation of the pay as well as release of arrears after regularization the services of the petitioner from the year 2004 alongwith interest @ 12 % per annum apart from other consequential benefits including promotion from the deemed date.
3. Today, Mr. Padamkant Dwivedi, Advocate has put in appearance on behalf of respondents No.2 to 4, who contends that at the time of issuance of notice of motion order on 10.04.2023, the petitioner has totally mis-represented before this

CWP-7048-2023

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Court and made a valiant attempt to mislead while stating that the services of the petitioner were regularised, however, the said order does not contain the date from which his services would be deemed to be regular, whereas the persons appointed after him have been given the said date, meaning thereby who are junior have been given beyond date of regularization.

4. The attention of this Court has been drawn to Annexure P-10 dated 20.11.2018, which is an order of granting regularization to the services of the petitioner as per the policy dated 29.07.2011, which categorically records that services are being regularised with immediate effect as a special case against a vacant sanction post of peon after regularization to the required minimum prescribed qualification for the said post. The said para of the order dated 20.11.2018 (Annexure P-10) is referred hereinbelow:-

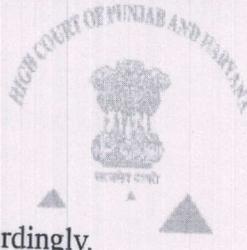
“Accordingly, it has been decided to regularise the services of Sh. Parvesh Kumar, Part Time Mali working in the office of SE (OP) Circle, UHBVN, Ambala, as Peon with immediate effect as a special case against vacant sanctioned post of peon in relaxation to required minimum prescribed qualification for the post.”

5. Mr. Dwivedi has also drawn attention of this Court to another order dated 13.12.2018 (Annexure P-11) passed in RSA No.157 of 2016, whereby the appellant has been offered regular appointment, which he has accepted and the said Regular Second Appeal has been disposed of having become rendered infructuous.

6. From the above narrated facts and circumstances perused from the record of the case file with the assistance of Mr. Padamkant Dwivedi, Advocate for respondents No.2 to 4, this Court is of the considered view that instant writ petition is wholly misconceived, malicious and an abuse of process of law, which deserves to be dismissed with an exemplary cost of Rs.25,000/-, which shall be deposited in the Welfare Fund of Bar Clerk's Association created by Punjab & Haryana High

CWP-7048-2023

Court, Bar Association.



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7. Ordered accordingly.

03.10.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

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

