



An ISO: 9001, ISO:14001
and ISO:45001
Certified Company

HARYANA POWER GENERATION CORPORATION LTD

Regd. Office: C-7, Urja Bhawan, Sector-6, Panchkula
Corporate Identity Number : U45207HR1997SGC033517
Website: www.hpgcl.org.in
E-mail id: xen.rect@hpgcl.org.in

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. 345 /Ch.86 /HPGC/ENG/HPU/C-2025/

Dated: 28 /07/2025.

Subject: - Important judgement passed by Hon'ble courts.

Kindly refer to the subject noted above.

In this context, enclosed please find herewith a copy of judgements (**list overleaf as Annexure-I**) 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/ LNO,
For Chief Engineer/Admn.,
HPGCL, Panchkula

Endst. No. 345/Ch-86 /HPGC/ENG/HPU/C-2025/

Dated: 28 /07/2025

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

✓ Xen/IT, HPGCL, Panchkula with a request to upload the along-with office memos (**copies enclosed**) on the official website of HPGCL, please.

DA/As above.
(Mailed)



XEN/ LNO,
For Chief Engineer/Admn.,
HPGCL, Panchkula

CC:-

PS to Chief Engineer/Admn, HPGCL, Panchkula.

Sr. No.	Subject	Judgements dated	Memo No.
1.	ARB NO. 500 of 2024 titled as M/s Instrumentation Ltd Vs UHBVN	25.02.2025	No. 95/LB-3(422) dated 03.06.25
2.	CR No. 7434 of 2023 titled as Rajbir Singh Vs SDO, UHBVNL & Ors.	22.05.2025	No. 13/LB-2(1016) KNL dated 12.06.25
3.	CWP No. 13395 of 1999 titled as Mahender Pal Vs SOH & Ors	29.04.2025	No. 75/LB-2(165) dated 12.06.25
4.	LPA No. 1887 of 2016 in CWP No. 28663 of 2013 titled as Phool Singh & Ors Vs SOH & Ors.	14.05.2025	No:29/LB-2(116) dated 20.06.25

 HPGCL AN ISO: 9001, ISO: 14001 & ISO: 45001 COMPANY	HARYANA POWER GENERATION CORPORATION LTD Regd. Office: C-7, Urja Bhawan, Sector-6, Panchkula Corporate Identity Number: U45207HR1997SGC033517
	Website: www.hpgcl.org.in E-mail: dsgenl@hpgcl.org.in Telephone No. 0172-5023426

From

Dy. Secy./General,
HPGCL, Panchkula.

To

✓ XEN/LNO,
HPGCL, Panchkula.

Memo No. Ch- 115 /HPGC/GB-389(Vol-III) 1444

Dated: 16.06.2025

Subject: ARB No. 500 of 2024 titled as M/s Instrumentation Ltd. V/s UHBVN.

Enclosed please find herewith a copy of memo no. 95/LB-3(422) dated 03.06.2025 received from Assistant Law Officer, HPUs, Panchkula on the subject noted above.

This is for information and taking further necessary action, please.


(Varun Kumar)
Dy. Secy./Genl.,
HPGCL, Panchkula.

CC:

PA to Chief Engineer/Admin., HPGCL, Panchkula.

Diary No. 1015 /dt. 17/06/25
AEE-G
AEE-R
AEE/AE-NG
~~Supdt.~~ 
All Officers


~~XEN/LNO~~

VAC



HARYANA VIDYUT PRASARAN NIGAM LIMITED

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

Corporate Identity Number : U40101HR1997SGC033683

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

Correspondence E-mail - lr@hvsn.org.in, hvsnlegalofficer2@gmail.com

Telephone No. - 0172-2560769, 0172-2571841

To

1. The CE/Admn., HVPNL, Panchkula.
2. The CE/TS, HVPNL, Panchkula.
3. The CE/TS, HVPNL, Hisar.
4. The CE/TS, HVPNL, Gurugram.
5. The CE/Op. DHBVN, Hisar.
6. The CE/Op. DHBVN, Delhi.
7. The CE/Admn., DHBVN, Hisar.
8. The CE/Op., UHBVN, Panchkula.
9. The CE/Op. UHBVN, Rohtak.
10. The CE/Admn., UHBVN, Panchkula.
11. The CE/Admn., HPGCL, Panchkula.

Memo No. 4101
Dated 12/06/25
DS/Estt.
DS/General
US/NGE
US/Rectt.
DS/T&M
XEN/HR&TRG
XEN/LNO
CE/Admin.

Memo No. 95 /LB-3(422)

Dated: 03.06.2025

Subject: ARB No. 500 of 2024 titled as M/s Instrumentation Ltd. Vs UHBVN.

Attention is drawn to judgment dated 25.02.2025 passed in subject cited case vide which the Hon'ble High Court dismissed the petition on account of section 12(5) of Arbitration & Conciliation Act, 2016 is not retrospective in nature and will not be applied on the arbitration proceedings commenced before 2015.

The operative part of judgment dated 25.02.2025 is given here under:-

"In the case in hand, the applicant is claiming that Arbitrator appointed by respondent is de jure unable to perform his functions. The Arbitrator has rejected applicant's application. As per sub-section (2), the applicant is required to apply to Court to decide on the termination of the mandate. The expression 'Court' has been defined under Section 2(1)(e) of Arbitration Act. This Court does not fall within the definition of 'Court' in terms of Section 2(1)(e) of 1996 Act. Thus, this Court has no power to entertain instant application. The applicant was supposed to approach District Court.

(iii) The Arbitrator was appointed on the request of applicant. The appointment was made in 2013. Both the parties filed their claim and defence by 2014. The amendment was made in 2015 and applicant without any demur joined proceedings till 2020 means for a period of 5 years from the date of amendment of Section 12 of 1996 Act. There was no express consent on the part of applicant as required under Section 12(5) but there was implied consent on the part of applicant. This Court is not oblivious of the fact that consent should be expressed. In view of peculiar facts of the instant case, this Court finds that there was consent on the part of the applicant. This fact is further corroborated by applicant's subsequent conduct. The Arbitrator rejected its application on 18.02.2021 whereas applicant approached this Court in September 2024 means more than 3 years after the date of order passed by Arbitrator.

(iv) The applicant is a Government of India Undertaking and respondent is also a State Government Undertaking. Except to claim that appointment of Arbitrator by respondent is contrary to Section 12(5),

15624
1 DAIRY NO.....
2 DATE.. 12.06.2025.
3 AEE/GENL-1
4 SUPDT/GENL.
5 DY. SUPDT/GENL.
6 ASST/GENL-(1)
7 ASST/GENL-(2)

there is no evidence disclosing reasonable apprehension that Arbitrator appointed by respondent is not an independent or impartial Arbitrator. Section 12(5) as conceded by applicant is not applicable to instant case because Arbitrator was appointed much prior to amendment of 2015 and amendment of 2015 is prospective in nature.

(v) The Arbitrator was appointed in 2013 and proceedings are still pending. Substitution of Arbitrator after such a long time would not be in the interest of justice. The object of 1996 Act is to adjudicate disputes as expeditiously as possible. Substitution of Arbitrator at this belated stage would be contrary to intent and purport of 1996 Act.

In the wake of above discussion and findings, this Court is of the considered opinion that the present application deserves to be dismissed and accordingly dismissed".

It is an important judgement regarding section 12(5) of Arbitration & Conciliation Act, 2016 which provides for change of arbitrator, is not retrospective in nature and will not be applied on the arbitration proceedings commenced before 2015 under the old Act. The above judgement be circulated to offices under your control for praying dismissal of similar cases by placing reliance on the judgment dated 25.02.2025 passed by Hon'ble High Court. It is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 25.02.2025 on the website of concerned Power Utility. A complete copy of judgment dated 25.02.2025 is enclosed herewith for ready reference.

DA/As Above

Rabim.

Assistant Law Officer,
HPU, Panchkula.

CC:-

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 20.05.2025 on the website of their utility.
2. The XEN/OP Divn., UHBVN, Kaithal.
3. The Joint Secy./Legal, HVPNL, Panchkula.
4. The Under Secy./Legal, HVPNL, Panchkula.
5. Dy. District Attorney-I, HVPNL, Panchkula.
6. Dy. District Attorney-II, HVPNL, Panchkula
7. Aman Dhiman, Legal Consultant, UHBVN, Panchkula.
8. Legal Consultant, HVPNL, Panchkula.
9. Legal Consultant, HPGCL, Panchkula
10. Law Officer, HVPNL, Panchkula.
11. Law Officer, DHBVNL, Panchkula.
12. Law Officer, UHBVNL, Panchkula
13. Legal Officer, UHBVN, Panchkula.
14. ALO-1 UHBVN, Panchkula.
15. ALO-2, UHBVN, Panchkula.
16. ALO-3, UHBVN, Panchkula.
17. ALO, DHBVN, Panchkula.
18. ALO, HVPNL, Panchkula.



78

ARB-500-2024

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

268

ARB-500-2024

Date of decision: 25.02.2025

M/S INSTRUMENTATION LTD.

....APPLICANT

Vs.

UTTAR HARYANA BIJLI NIGAM LTD.

...RESPONDENT

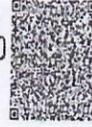
CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Dilmrig Nayani, Advocate
for the applicant.

Mr. Raman Sharma, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J (ORAL)

1. The applicant through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") is seeking appointment of an Arbitrator to adjudicate the dispute between the parties.
2. The applicant-M/s Instrumentation Limited is a Government of India Undertaking. It is engaged in the business of manufacturing and supplying equipment on turnkey basis. The respondent is Government of Haryana Undertaking means applicant as well as respondent are Government Undertakings. The respondent floated a Tender in 2009 for supply of material for conversion of existing LT Lines to new 11 kV Lines. The applicant submitted its bid and respondent awarded the work. The applicant requested for grant of exemptions, however, respondent rejected its request on the ground that terms and conditions of the contract are sacrosanct. The respondent issued works order on 10.07.2009. A dispute erupted between the parties which led to termination of contract by respondent vide communication dated 22.07.2010 imposing liquidation damages to the tune of 5% of bid value. The applicant invoking



ARB-500-2024

-2-

arbitration clause, requested respondent to appoint an independent Arbitrator to resolve the dispute. The respondent appointed a Sole Arbitrator who vide notice dated 11.12.2013 informed the applicant about his appointment. The applicant submitted its claim and respondent submitted its defence. The process of filing claim and defence concluded by 22.05.2014. The proceedings continued before Arbitrator, however, could not be concluded due to change of Arbitrators. The applicant on 25.08.2020 filed an application under Section 13(2) of 1996 Act assailing appointment of the Arbitrator. The applicant contended before the Arbitrator that his appointment is in violation of law. It is an incurable defect. In view of amended Section 12(5) read with Seventh Schedule, the appointment has become *de jure* illegal, thus, Arbitrator is ineligible to proceed. The Arbitrator vide order dated 18.02.2021 rejected applicant's application. The operative part of the order dated 18.02.2021 is reproduced as below:-

“ORDER

Both the parties have been heard at length on the application of the Claimant dated 25.08.2020. I have gone through the provisions of the Act and the judgements relied upon by both the parties. I conclude that the judgments relied upon by the Claimant are not applicable in the present case, for the reason that the Arbitrator in the cited judgements was appointed after the Amended Act of 2015 had come into operation. Whereas in this case, the Arbitrator was appointed by designation in the year 2013 as per the Contract. The undersigned has only been substituted as Arbitrator by virtue of the designation.

Section 26 of the Amended Act of 2015 clearly excludes the applicability of provisions of said Act on appointments made prior to October, 2015. This position of law has also been stated in the judgments cited by the Respondent, i.e. Union of India v Parmar Construction 29 March 2019 SC and Galore Infratech Pvt. Ltd.



ARB-500-2024

-3-

Mumbai V. Sew Krishnagar Bahrapore, hyd. (Arb. No. 110 of 2016). In my view, the provisions of Section 12 (5) and the Seventh Schedule of the Amended Act of 2015 is not applicable to the present case.

Hence, the application has no merit and is hereby dismissed."

3. The applicant after rejection of its application assailing appointment of the Arbitrator, appeared before the Arbitrator and proceedings continued. The applicant through instant application is seeking substitution of the Arbitrator.
4. Counsel for the applicant submits that Arbitrator appointed by the respondent, in view of the amendment made in Section 12 by Arbitration and Conciliation (Amendment) Act 2015 (for short '2015 Act') has become *de jure* ineligible to continue. The Arbitrator appointed by respondent falls in Seventh Schedule of 1996 Act, thus, he cannot continue without express consent of the applicant. Independence of Arbitrator is of paramount consideration in arbitration proceedings. Supreme Court in '*Ellora Paper Mills Ltd. Vs. State of M.P., (2022) 3 SCC 1*, after noticing plethora of judgments has clearly held that appointment of Arbitrator made by any party which is contrary to Section 12(5) of 1996 Act is invalid and such Arbitrator cannot be allowed to continue. In view of mandate of Section 15 of 1996 Act, this Court is Competent to substitute the Arbitrator appointed by respondent. Application is maintainable before this Court in terms of Section 11(6) read with Section 15(2) of 1996 Act. The amendment of Section 12(5) is prospective still in view of judgments of Supreme Court, an Arbitrator who falls within Seventh Schedule cannot continue.
5. *Per contra*, Mr. Raman Sharma, Addl. A.G., Haryana submits that in view of judgment of Supreme Court in '*Hindustan Construction Company*



ARB-500-2024

-4-

Limited Vs. Union of India and others, (2020) 17 SCC 324, the amendment of Section 12(5) is prospective in nature. The Arbitrator was appointed much prior to amendment of Section 12 of 1996 Act. The applicant on 25.08.2020, in terms of amended Section 12 of 1996 Act, moved an application before Arbitrator assailing his jurisdiction. The said application came to be rejected vide order dated 18.02.2021 on the ground that as per Section 26 of 2015 Act, the proceedings already initiated would not be affected by 2015 Act. Order passed by Arbitrator is not under challenge. The applicant could approach District Judge against the order of Arbitrator. The Arbitrator passed order rejecting applicant's application on 18.02.2021 whereas applicant approached this Court in 2024.

6. In view of Section 26 of 2015 Act read with judgment of Supreme Court in *Hindustan Construction Company Limited (Supra)*, it is undisputed that amendment made in Section 12 by 2015 Act is prospective in nature. The applicant is claiming that in view of Section 15(2) read with Section 11(6) of 1996 Act, this Court has power to substitute the Arbitrator. The applicant filed application under Sections 13(2) read with Section 12(5) before the Arbitrator who wrongly rejected the application. The applicant has only remedy to approach this Court under Section 11(6) in view of rejection order passed by Arbitrator.

7. The applicant relying upon judgment of Supreme Court in *Ellora Paper Mills Ltd. (Supra)* is claiming that despite joining proceedings, the Arbitrator should be substituted by this Court. The Supreme Court in the said case has held that an Arbitrator whose appointment is bad as per Section 12(5) read with Seventh Schedule of 1996 Act cannot continue and he should be substituted by another Arbitrator. The applicant has ignored the fact that in the



ARB-500-2024

-5-

said case there was stay granted by High Court from May' 2001 to January' 2017 and thereafter an application was preferred before High Court under Section 14 read with Sections 11 and 15 of 1996 Act seeking termination of the mandate of the originally constituted Arbitral Tribunal. There was stay which remained operative virtually from 2001 to 2021. Facts of the instant case are different, thus, ratio of said case is inapplicable.

8. In view of following reasons, the instant application deserves to be dismissed:-

- (i) The applicant preferred an application dated 25.08.2020 before Arbitrator assailing its appointment in view of Section 12(5) read with Seventh Schedule of 1996 Act. The said application was dismissed on 18.02.2021 and there is no challenge to said order. Substitution of the Arbitrator by this Court would amount to setting aside of an order which is not under challenge.
- (ii) The applicant is claiming appointment of Arbitrator by respondent, in terms of Section 12(5), has become *de jure* bad in the eye of law. Thus, a new Arbitrator should be appointed by this Court. The applicant filed application before Arbitrator under Section 13 of 1996 Act. Section 14 of 1996 Act provides that mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if he becomes *de jure* or *de facto* unable to perform his functions. As per applicant, the Arbitrator appointed by respondent is *de jure* unable to perform. Section 14(2) provides that if a controversy remains concerning under any



ARB-500-2024

-6-

of the grounds referred to in clause (a) of sub-section (1), a party may apply to the Court to decide on the termination of the mandate. Section 14 of 1996 Act is reproduced as below:-

“Section 14. Failure or impossibility to act.

(1) [The mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if]—

(a) he becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay; and

(b) he withdraws from his office or the parties agree to the termination of his mandate.

(2) If a controversy remains concerning any of the grounds referred to in clause (a) of sub-section (1), a party may, unless otherwise agreed by the parties, apply to the Court to decide on the termination of the mandate.

(3) If, under this section or sub-section (3) of section 13, an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, it shall not imply acceptance of the validity of any ground referred to in this section or sub-section (3) of section 12.”

In the case in hand, the applicant is claiming that Arbitrator appointed by respondent is *de jure* unable to perform his functions. The Arbitrator has rejected applicant’s application. As per sub-section (2), the applicant is required to apply to Court to decide on the termination of the mandate. The expression ‘Court’ has been defined under Section 2(1)(e) of Arbitration Act. This Court does not fall within the definition of ‘Court’ in terms of Section 2(1)(e) of 1996 Act. Thus, this Court has no power to entertain instant application. The applicant was supposed to approach District Court.

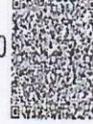


84

ARB-500-2024

-7-

- (iii) The Arbitrator was appointed on the request of applicant. The appointment was made in 2013. Both the parties filed their claim and defence by 2014. The amendment was made in 2015 and applicant without any demur joined proceedings till 2020 means for a period of 5 years from the date of amendment of Section 12 of 1996 Act. There was no express consent on the part of applicant as required under Section 12(5) but there was implied consent on the part of applicant. This Court is not oblivious of the fact that consent should be expressed. In view of peculiar facts of the instant case, this Court finds that there was consent on the part of the applicant. This fact is further corroborated by applicant's subsequent conduct. The Arbitrator rejected its application on 18.02.2021 whereas applicant approached this Court in September' 2024 means more than 3 years after the date of order passed by Arbitrator.
- (iv) The applicant is a Government of India Undertaking and *respondent is also a State Government Undertaking. Except to claim that appointment of Arbitrator by respondent is contrary to Section 12(5), there is no evidence disclosing reasonable apprehension that Arbitrator appointed by respondent is not an independent or impartial Arbitrator. Section 12(5) as conceded by applicant is not applicable to instant case because Arbitrator was appointed much prior to amendment of 2015 and amendment of 2015 is prospective in nature.*



ARB-500-2024

-8-

(v) The Arbitrator was appointed in 2013 and proceedings are still pending. Substitution of Arbitrator after such a long time would not be in the interest of justice. The object of 1996 Act is to adjudicate disputes as expeditiously as possible. Substitution of Arbitrator at this belated stage would be contrary to intent and purport of 1996 Act.

9. In the wake of above discussion and findings, this Court is of the considered opinion that the present application deserves to be dismissed and accordingly dismissed.

25.02.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No



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, Legalretainer@hvpn.org.in

Telephone No. - 0172-2560769, 0172-2571841

(83)

To

1. The CE/Admn., HVPNL, Panchkula.
2. The CE/TS, HVPNL, Panchkula.
3. The CE/TS, HVPNL, Hisar.
4. The CE/TS, HVPNL, Gurugram.
5. The CE/Op. DHBVN, Hisar.
6. The CE/Op. DHBVN, Delhi.
7. The CE/Admn., DHBVN, Hisar.
8. The CE/Op., UHBVN, Panchkula.
9. The CE/Op. UHBVN, Rohtak.
10. The CE/Admn., UHBVN, Panchkula.
11. The CE/Admn., HPGCL, Panchkula.

Diary No. 1050 /dt. 25/6/25

AEE-G

AEE-R

AEE/AE-NG

Supdt.

All Officers

XEN/LNO

432

Memo No: 13/LB-2(1016)KNL

Dated: 12.06.2025

Subject: CR No. 7434 of 2023 titled as Rajbir Singh V/s SDO, UHBVNL & Ors.

The aforesaid case came up for hearing on 22.05.2025 and the Hon'ble High Court vide judgment dated 22.05.2025 has dismissed the same. The operative part of the judgment dated 22.05.2025 is reproduced here under:-

"10. I have considered the submissions made by learned counsel for the parties.

11. At this stage, this Court does not deem it appropriate to issue any ad interim injunction, for, no infrastructure work should be halted by passing injunctions. Even otherwise, learned counsel representing respondent defendant No.1 (UHBVNL) has taken a very fair stand that the poles are being shifted on the land of the PWD and all applicable instructions in this regard shall be followed and further due care shall be taken that as far as practicable, the poles are not shifted near the house of the petitioner-plaintiff so that there is no danger to the petitioner-plaintiff and his family members as well.

12. That being so, the present revision petition is disposed of in the aforesaid terms.

Pending application(s), if any, shall also stand disposed of."

It is important judgment on issue that infrastructure work should not be halted by way of injunctions. Furthermore, due care must be taken by the Nigam, as far as practicable, to ensure that electric poles are not relocated near residential houses, thereby avoiding any potential danger to the residents. It is therefore, requested to circulate the judgment amongst the subordinate offices under your control for disposal of similarly situated case by placing reliance on the aforesaid judgment. A copy of judgment dated 22.05.2025 is enclosed herewith for ready reference.

DA/As above

For L.R. HPU, Panchkula
ALO,
12/06/25

CC:-

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 22.05.2025 on the website of their utility.
2. The SDO S/U S/Divn., UHBVN, Gharaunda.
3. The Joint Secy./Legal, HVPNL, Panchkula.
4. The Under Secy./Legal, HVPNL, Panchkula.
5. Dy. District Attorney-I, HVPNL, Panchkula.
6. Dy. District Attorney-II, HVPNL, Panchkula.
7. Aman Dhiman, Legal Consultant, UHBVN, Panchkula.
8. Legal Consultant, HVPNL, Panchkula.
9. Legal Consultant, HPGCL, Panchkula.
10. Law Officer, HVPNL, Panchkula.
11. Law Officer, DHBVNL, Panchkula.
12. Law Officer, UHBVNL, Panchkula.
13. Legal Officer, UHBVN, Panchkula.
14. ALO-1 UHBVN, Panchkula.
15. ALO-2, UHBVN, Panchkula.
16. ALO-3, UHBVN, Panchkula.
17. ALO, DHBVN, Panchkula.
18. ALO, HVPNL, Panchkula.

Memo No. 4337

Dated. 24/6/25

DS/Estt.

DS/General

US/NGE

US/Rectt.

DS/T&M

XEN/HR&TRG

XEN/LNO

CE/Admin.

Day No. 129
EE-G
EE-R
EEAE-NG
All Officers
XENLNO

Memo No.
Dated
DS&E
DS&General
USNGE
US&Rct
DS&M
XENHR&TRG
XENLNO

CF 10/10/10



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CR-7434-2023 (O&M)
Date of decision: 22.05.2025

Rajbir Singh

...Petitioner

V/s

Sub-Divisional Officer, UHBVNL and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vishal Jassal, Advocate, for the petitioner.
Ms. Nikita Goel, Advocate, for respondent No.1.
None for respondent No.2 despite service.
Mr. Bhim Singh, Advocate, for respondent No.3.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 30.10.2023 (Annexure P-7) passed by the Court of Additional District Judge, Karnal dismissing the appeal filed against the order dated 20.08.2020 (Annexure P-5) passed by the Court of Civil Judge (Jr. Divn.), Karnal, vide which the application preferred by the petitioner-plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short the "CPC") for the grant of ad interim injunction was dismissed.

2. A suit (Annexure P-1) was instituted by the petitioner-plaintiff (Rajbir Singh) for permanent injunction, restraining the defendant-UHBVNL from installing poles and electricity lines in the agricultural land and in front of the house and shops of the petitioner-plaintiff and from removing the poles standing in the land of respondent-defendant No.3 (Varinder Singh).

4. The case set up was that the petitioner-plaintiff was owner in possession of land measuring 44 kanals 9 marlas in Village Staundi, Tehsil Gharaunda, District Karnal. He was having his residential house and three shops towards the roadside in the said land. On the eastern side of the house

of the petitioner-plaintiff was the land of respondent-defendant No.3, wherein four poles had been erected by the UHBVNL in 1962. Respondent-defendant No.2 i.e. Govt. Girls School, Village Staundi, in collusion with respondent-defendant No.3 moved an application to the UHBVNL for removal of the said four poles by claiming that they were a danger to the lives of children studying in the school. The case set up was that on account of the said collusion, the UHBVNL was now contemplating installing a pole in front of the house of the petitioner-plaintiff and in his land. Reference was made to sales instructions No.U-25/2014 of 20.10.2014 as regards erection of electricity lines. Along with the said suit, an application under Order 39 Rules 1 and 2 CPC for the grant of ad interim injunction was filed.

5. The suit was opposed by the defendants. Respondent-defendant No.1 (UHBVNL), in its written statement (Annexure P-2) raised certain preliminary objections as regards *locus standi*, maintainability, estoppels, cause of action, jurisdiction etc. On merits, the allegation of collusion was denied. It was averred that the school was having toilets in the rear portion of the building which were being used by the children and an application dated 29.01.2020 had been moved by respondent-defendant No.2 for removal of electricity lines over the said toilets. Accordingly, a site plan and estimate had been got prepared for shifting the said lines on 12.03.2020 and the work was started. It was also averred that no pole was being installed in the land of the petitioner-plaintiff and was being installed at a sufficient distance from the house and shops of the petitioner-plaintiff. Reply to the application for the grant of ad interim injunction was also filed.

6. Respondent-defendant No.2 (school) filed its own written statement (Annexure P-3), reiterating the fact about the electric poles passing



over the toilets. Respondent-defendant No.3 also filed a separate written statement (Annexure P-4) denying all averments. Vide order dated 20.08.2020 (Annexure P-5), the application for the grant of ad interim injunction was dismissed by the trial Court so was the appeal against the said order vide order dated 30.10.2023 (Annexure P-7).

7. I have heard learned counsel for the parties.

8. Learned counsel for the petitioner submits that both Courts have erred in dismissing the application for the grant of ad interim injunction. He submits that the sales instructions No.U-25/2014 of 20.10.2014 are to be followed by the UHBVNL while erecting/shifting electricity lines. He submits that in collusion with respondent-defendant No.3, respondent-defendant No.1 obtained an application from respondent-defendant No.2 and initiated the process of shifting the electricity poles.

9. Learned counsel for respondent No.1 submits that the poles, in any case, are being shifted on the land of the PWD and not on the land of the petitioner-plaintiff. She further submits that for the said purpose, the applicable instructions shall duly be followed. She submits that in so far as the petitioner-plaintiff is concerned, due care shall be taken as far as practicable to place the poles etc. in such a manner that they are not a cause of nuisance or danger to the petitioner-plaintiff as well.

10. I have considered the submissions made by learned counsel for the parties.

11. At this stage, this Court does not deem it appropriate to issue any ad interim injunction, for, no infrastructure work should be halted by passing injunctions. Even otherwise, learned counsel representing respondent-defendant No.1 (UHBVNL) has taken a very fair stand that the poles are



CR-7434-2023

-4-

being shifted on the land of the PWD and all applicable instructions in this regard shall be followed and further due care shall be taken that as far as practicable, the poles are not shifted near the house of the petitioner-plaintiff so that there is no danger to the petitioner-plaintiff and his family members as well.

12. That being so, the present revision petition is disposed of in the aforesaid terms.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

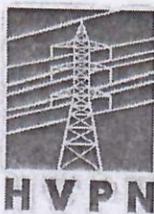
May 22, 2025
vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

vcg

84



HARYANA VIDYUT PRASARAN NIGAM LTD

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109
Corporate Identity Number : U40101HR1997SGC033683
Website : www.hvsn.org.in, E-mail: companysecy@hvsn.org.in
Correspondence E-mail - lr@hvsn.org.in, anusinglaalo@edhvsn.org.in
Telephone No. - 0172-2560769, 0172-2571841

1052 /dt. 25/6/25

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

EE-G
 AEE-R
 AEE/AE-NG
 Supdt.
 All Officers
 XEN/LNO

Memo No.:75/LB-2(165)

Dated: 12.06.2025

JAC

Subject: CWP No. 13395 of 1999 titled Mahender Pal Vs. State of Haryana & Ors.

Attention is drawn to judgment dated 29.04.2025 passed in subject cited writ petition by the Hon'ble High Court whereby Hon'ble High Court dismissed the Writ petition. The order dated 29.04.2025 is reproduced here under:-

"In the present petition, the prayer of the petitioner is that though the petitioner has been granted certain benefits for the service, which the petitioner had rendered during the promulgation of the Emergency but, the pay scale of the petitioner was required to be fixed by taking into consideration the total length of the service of the petitioner in army, irrespective of the fact that whether the same was during the Emergency or thereafter.

Learned counsel for the petitioner relies upon the judgment passed by the Division Bench, dated 18.12.1995, passed in CWP-11351-1999.

Learned counsel for the respondents have stated that petitioner is seeking the benefit under the Punjab Government National Emergency (Concession) Rules, 1965 and as per the said rules, the benefit qua the military service for purpose of fixing pay scale can only be given for the period during which, there was a promulgation of Emergency.

Learned counsel for respondent further submits that only the benefit of the service rendered during the Emergency and not thereafter has been ordered to be given under the rules. Learned counsel for the respondents further submits that the order of the Division Bench upon which petitioner has placed his reliance upon is a consented order, which will not be applicable in the facts and circumstances of the present case.

I have heard learned counsel for the parties and have gone through the records of this case with their assistance.

Once, the petitioner is claiming benefit of service rendered under 1965 Rule, the same is only admissible qua the period an employee worked with the Armed Forces during the period of Emergency. It is also a conceded position that the petitioner has been given the said benefit of service rendered while the Emergency was in operation. That being so, the argument of the petitioner that the total length of his service is to be taken into account for the grant of fixation of pay scale is not made out keeping in mind the 1965 Rules.

Memo No. 4340
 Dated 24/6/25
 DS/Estt.
 DS/General
 US/NGE
 US/Rectt.
 DS/T&M
 XEN/HR&TRG
 XEN/LNO
 CE/Admin.

Further, no such relevant rule has been brought to the notice of this Court of the petitioner which could underpin in the argument of petitioner that benefit of the service rendered by the petitioner during the time apart from the service rendered in the Emergency should be taken into consideration for the purpose of fixing pay scale.

The reliance which has been placed by the petitioner upon the judgment of the Division Bench cannot be made applicable in the present case as in the said case the facts, were conceded by the department and thereafter the relief was given, whereas in the present case counsel for the respondents is contesting the claim raised by petitioner by stating that the service rendered by petitioner beyond the Emergency period, cannot be taken into account for the grant of benefit under 1965 Rules. Hence, the judgment of the Division Bench cannot be made applicable to the facts and circumstances of the present case.

No further arguments has been raised keeping in view of the above no ground is made out to interference by this Court. Dismissed..”

It is an important judgment on the issue that the Service rendered by petitioner beyond the emergency period cannot be taken into account for grant of benefit under 1965 Rules.

It is therefore requested to circulate the judgment amongst the subordinate under your control for praying decide the similar cases by placing reliance on the judgment dated 29.04.2025 passed by Hon'ble High Court. It is also requested to direct the concerned CE/IT and SE/IT DHBVN to host the judgment dated 29.04.2025 on the website of concerned Power Utility. A complete copy of judgment dated 29.04.2025 is enclosed herewith for ready reference.

DA/As above



Legal Officer,
For LR, HPU, Panchkula.

CC:

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 03.04.2025 on the website of their utility.
2. The Joint Secy./Legal, HVPNL, Panchkula.
3. The Under Secy./Legal, HVPNL, Panchkula.
4. Dy. District Attorney-I, HVPNL, Panchkula.
5. Dy. District Attorney-II, HVPNL, Panchkula
6. Sh. Aman Dhiman, Legal Consultant, UHBVN, Panchkula.
7. Legal Consultant, HVPNL, Panchkula.
8. Legal Consultant, HPGCL, Panchkula
9. Law Officer, HVPNL, Panchkula.
10. Law Officer, DHBVNL, Panchkula.
11. Law Officer, UHBVNL, Panchkula
12. Legal Officer, UHBVN, Panchkula.
13. ALO-1 UHBVN, Panchkula.
14. ALO-2, UHBVN, Panchkula.
15. ALO-3, UHBVN, Panchkula.
16. ALO, DHBVN, Panchkula.
17. ALO, HVPNL, Panchkula.



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

142

CWP-13395-1999 (O&M)
Date of Decision: 29.04.2025

Mahender Pal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sudhir Aggarwal, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Ms. Shikha Goyal, Advocate for respondents No.2 and 3.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the prayer of the petitioner is that though the petitioner has been granted certain benefits for the service, which the petitioner had rendered during the promulgation of the Emergency but, the pay scale of the petitioner was required to be fixed by taking into consideration the total length of the service of the petitioner in army, irrespective of the fact that whether the same was during the Emergency or thereafter.

2. Learned counsel for the petitioner relies upon the judgment passed by the Division Bench, dated 18.12.1995, passed in CWP-11351-1999.

3. Learned counsel for the respondents have stated that the



CWP-13395-1999 (O&M) -2-

petitioner is seeking the benefit under the Punjab Government National Emergency (Concession) Rules, 1965 and as per the said rules, the benefit qua the military service for purpose of fixing pay scale can only be given for the period during which, there was a promulgation of Emergency.

3. Learned counsel for respondent further submits that only the benefit of the service rendered during the Emergency and not thereafter has been ordered to be given under the rules. Learned counsel for the respondents further submits that the order of the Division Bench upon which petitioner has placed his reliance upon is a consented order, which will not be applicable in the facts and circumstances of the present case.

4. I have heard learned counsel for the parties and have gone through the records of this case with their assistance.

5. Once, the petitioner is claiming benefit of service rendered under 1965 Rule, the same is only admissible qua the period an employee worked with the Armed Forces during the period of Emergency. It is also a conceded position that the petitioner has been given the said benefit of service rendered while the Emergency was in operation. That being so, the argument of the petitioner that the total length of his service is to be taken into account for the grant of fixation of pay scale is not made out keeping in mind the 1965 Rules.

6. Further, no such relevant rule has been brought to the notice of this Court of the petitioner which could underpin in the argument of petitioner that benefit of the service rendered by the petitioner during the time apart from the service rendered in the Emergency should be taken into consideration for the purpose of fixing pay scale.



CWP-13395-1999 (O&M) -3-

7. The reliance which has been placed by the petitioner upon the judgment of the Division Bench cannot be made applicable in the present case as in the said case the facts, were conceded by the department and thereafter the relief was given, whereas in the present case counsel for the respondents is contesting the claim raised by petitioner by stating that the service rendered by petitioner beyond the Emergency period, cannot be taken into account for the grant of benefit under 1965 Rules. Hence, the judgment of the Division Bench cannot be made applicable to the facts and circumstances of the present case.

8. No further arguments has been raised keeping in view of the above no ground is made out to interference by this Court.

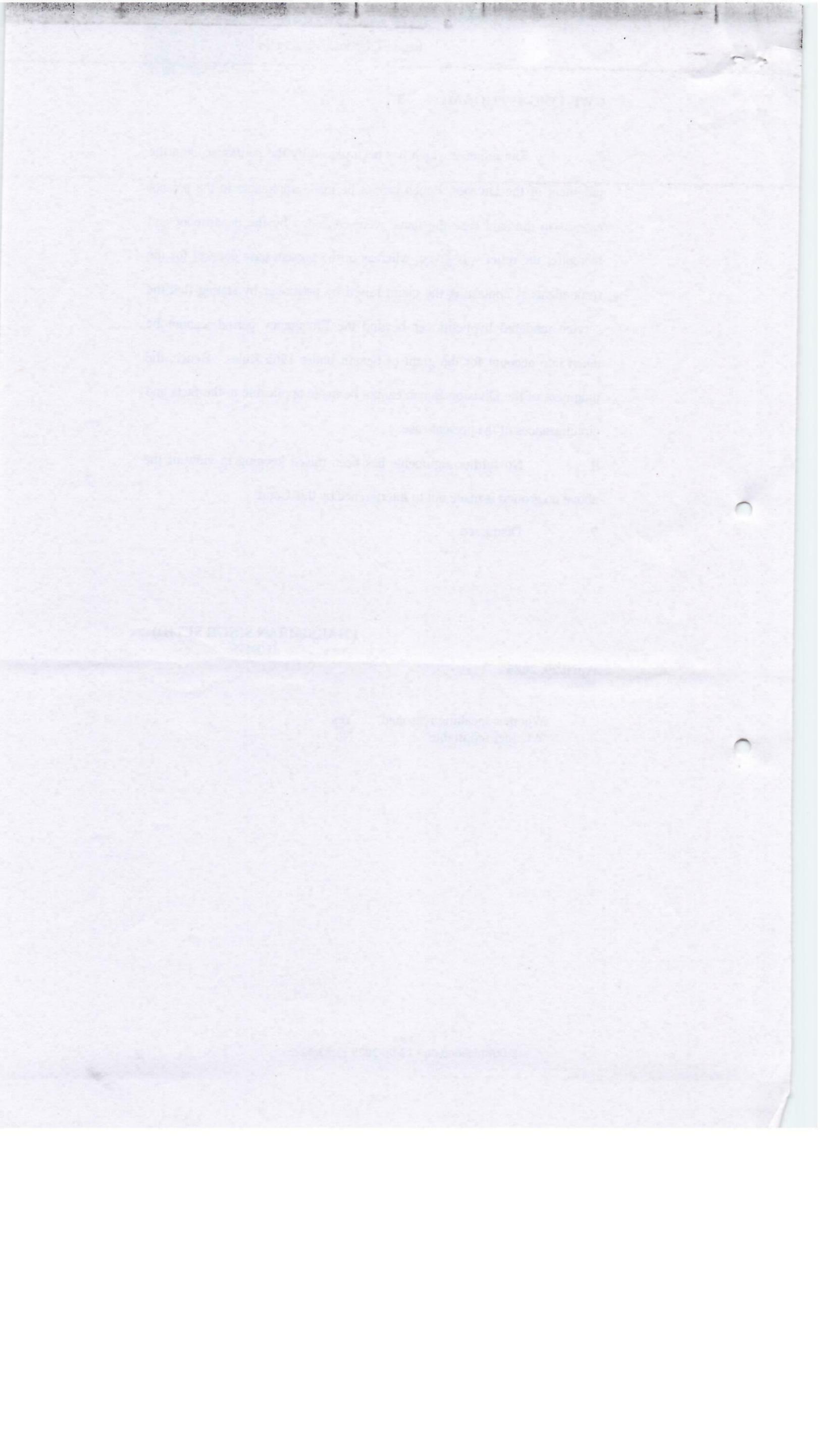
7. Dismissed.

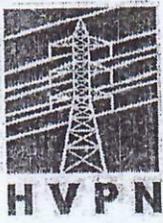
(HARSIMRAN SINGH SETHI)

(HARSIMRAN SINGH SETHI)
JUDGE

April 29, 2025
Nisha-1

Whether speaking/reasoned	Yes
Whether reportable	No





HARYANA VIDYUT PRASARAN NIGAM LTD

Regd. Office : Shakti Bhawan, Plot No. C-4, Sector-6, Panchkula 134109
Corporate Identity Number : U40101HR1997SGC033683
Website : www.hvsn.org.in, E-mail: companysecy@hvsn.org.in
Correspondence E-mail - lr@hvsn.org.in, anusinglaalo@edhbvn.org.in
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

Diary No. ~~1120~~ /dt. 07/07/25

AEE-G

AEE-R

AEE/AE-NG

Supdt.

All Officers

VSC

XEN/LNO

Memo No.:29/LB-2(116)

Dated: 20.06.2025

Subject: LPA No. 1887 of 2016 in CWP No. 28663/2013 titled as Phool Singh & Ors. Vs. State of Haryana & Ors.

Attention is drawn to judgment dated 14.05.2025 passed by the Hon'ble High Court whereby Hon'ble High Court dismissed the LPA. The order dated 29.04.2025 is reproduced here under:-

1. Counsel for the appellant is not present.
2. This is an old case pending since 2013 not wait further for him.
3. Learned counsel appearing for respondents No.2 and 3/ Nigam submits that this Court vide order dated 05.05.2025, in LPA No.208 of 2017 and connected appeals, has finally adjudicated the controversy and under:-

"14. We are unable to accept the contention. In Balbir Singh's case (supra), the Division Bench while allowing the appeal noticed one factor, which needs to be taken note of:

"In our considered opinion, it was open to the appellants have contended at that point of time in that Writ Petition that the representation of the respondent cannot be entertained on the ground of laches, but they have waived the said condition. Therefore, they are stopped from raising the said contention in this writ petition. Also, the said contention can be said to be barred by the principle of constructive resjudicata as well."

15. We have also noticed that the selection process is of the year 1992, revised in the year 1995. In the years 1998 and 1999, the said State Electricity Board has already divided into 4 different companies. The posts were also assigned to four different companies. The advertisement has lost its life and has become otiose. After so many years, the candidates who had applied under the said advertisement would have now become 33 years older in age. Some of them may have attained the age of superannuation.
16. In view thereto, we find that this entire exercise of pursuing the appeal, which is being conducted at this belated stage, has become purely academic. That apart, on merit also, we do not find any reason to grant relief to the appellants who remained silent with regard to their claim for reserved posts till 2014

Memo No. 4595
Dated. 03/07/25
DS/E/ctt
DS/General
US/NGE
US/Partt
DS/SM
XEN/HT&TRG
XEN/LNO

CE/Admin.

while the selection process had been started afresh in the year 1996. The learned Single Judge has, thus, rightly found the case to be suffered from gross delay and laches. The respondents have already taken the said objection and, therefore, the judgment of Balbir Singh's case (supra) would have no application to the facts of the present case. Accordingly, we dismiss all the four appeals."

4. In view thereto, the present appeal is also dismissed.
5. All pending misc. application(s) also stand disposed of.. "

It is an important judgment on the issue that the case of the petitioner suffered from gross delay and laches.

It is therefore requested to circulate the judgment amongst the subordinate under your control for praying decide the similar cases by placing reliance on the judgment dated 14.05.2025 passed by Hon'ble High Court. It is also requested to direct the concerned CE/IT and SE/IT DHBVN to host the judgment dated 14.05.2025 on the website of concerned Power Utility. A complete copy of judgment dated 14.05.2025 is enclosed herewith for ready reference.

DA/As above



Legal Officer,
For LR, HPU, Panchkula.

CC:

1. The S.E./XEN/IT, UHBVN, HVPNL, HPGCL, DHBVN, Panchkula/Hisar are requested to upload the judgment dated 03.04.2025 on the website of their utility.
2. The Joint Secy./Legal, HVPNL, Panchkula.
3. The Under Secy./Legal, HVPNL, Panchkula
4. Dy. District Attorney-I, HVPNL, Panchkula.
5. Dy. District Attorney-II, HVPNL, Panchkula
6. Sh. Aman Dhiman, Legal Consultant, UHBVN, Panchkula.
7. Legal Consultant, HVPNL, Panchkula.
8. Legal Consultant, HPGCL, Panchkula
9. Law Officer, HVPNL, Panchkula.
10. Law Officer, DHBVNL, Panchkula.
11. Law Officer, UHBVNL, Panchkula
12. Legal Officer, UHBVN, Panchkula.
13. ALO-1 UHBVN, Panchkula.
14. ALO-2, UHBVN, Panchkula.
15. ALO-3, UHBVN, Panchkula.
16. ALO, DHBVN, Panchkula.
17. ALO, HVPNL, Panchkula.



205

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:063879-DB



CM-3895-LPA-2016,
CM-3896-LPA-2016,
CM-3897-LPA-2016 in/and
LPA-1887-2016 (O&M)
Date of Decision: 14.05.2025

Phool Singh

...Appellant

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: None for the appellant.
Mr. Saurabh Mohunta, DAG, Haryana.
Ms. Perna Malhotra, Advocate for
Mr. Prateek Mahajan, Advocate for respondents No.2 and 3.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Counsel for the appellant is not present.
2. This is an old case pending since 2013 and we therefore, need not wait further for him.
3. Learned counsel appearing for respondents No.2 and 3/ Nigam submits that this Court vide order dated 05.05.2025, in LPA No.208 of 2017 and connected appeals, has finally adjudicated the controversy and held as under:-

"14. We are unable to accept the contention. In Balbir Singh's case (supra), the Division Bench while allowing the appeal noticed one factor, which needs to be taken note of:-

"In our considered opinion, it was open to the appellants to have contended at that point of time in that Writ Petition that the representation of the respondent cannot be entertained on the ground of laches, but they have



waived the said condition. Therefore, they are stopped from raising the said contention in this writ petition. Also, the said contention can be said to be barred by the principle of constructive resjudicata as well.”

15. We have also noticed that the selection process is of the year 1992, revised in the year 1995. In the years 1998 and 1999, the said State Electricity Board has already divided into 4 different companies. The posts were also assigned to four different companies. The advertisement has lost its life and has become otiose. After so many years, the candidates who had applied under the said advertisement would have now become 33 years older in age. Some of them may have attained the age of superannuation.

16. In view thereto, we find that this entire exercise of pursuing the appeal, which is being conducted at this belated stage, has become purely academic. That apart, on merit also, we do not find any reason to grant relief to the appellants who remained silent with regard to their claim for reserved posts till 2014 while the selection process had been started afresh in the year 1996. The learned Single Judge has, thus, rightly found the case to be suffered from gross delay and laches. The respondents have already taken the said objection and, therefore, the judgment of Balbir Singh’s case (supra) would have no application to the facts of the present case. Accordingly, we dismiss all the four appeals.”

4. In view thereto, the present appeal is also dismissed.
5. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

14.05.2025
rajesh

- | | | |
|-------------------------------|---|--------|
| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |