

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 26077 of 2013 (O&M)

Date of decision : March 17, 2015

Nirmala,

..... Petitioner

v.

Uttar Haryana Bijli Vitran Nigam Ltd. & others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Jasmer Singh Rozera, Advocate
for the petitioner.

Mr. PS Poonia, Advocate
for the respondents.

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

The husband of the petitioner died on 18.10.1994. She applied for compassionate appointment under the Ex-gratia Scheme. Initially, she was offered the post of Mali but that offer was withdrawn because that post was no longer vacant. At that time, the son of the petitioner was a minor and after he attained majority, the petitioner applied for a job for him, or in the alternative for ex-gratia lump sum payment but that was rejected on the ground of delay. On 6.10.2014, this Court passed the following order :-

“ Learned counsel for respondents seeks to draw the attention of the Court to order dated 24.01.2014, Annexure R-3/1 followed by additional affidavit dated

17.05.2014 filed by the Managing Director, Uttar Haryana Bijli Vitran Nigam. However, a combined reading of the abovesaid order dated 24.01.2014, Annexure R3/1 as well as affidavit dated 17.05.2014 shows that the respondents authorities are still not aware of the factual aspect of the matter that the delay, if any, was not on the part of the petitioner, but it happened only because of the serious inaction on the part of the respondent authorities.

Numerous communications contained in Annexures P1 to P9 would prima facie show that petitioner applied well in time, but respondent-department took a stand that no Class-IV post was available against which the petitioner could have been adjusted. The only reference made in Annexures P1 and P2 was that the post of Mali was not available. Thus, the stand taken was self contradictory because numerous Class-IV posts must have been available and filled up. In such a situation, to reject a genuine and reasonable claim of the petitioner after about 20 years saying it to be time barred, would be totally against the basic principles of natural justice.

A widow could not have done anything more than what the petitioner has done in the present case. Her claim was still pending consideration when the rules known as The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, came into force. In view of the peculiar facts and circumstances of the case, noticed hereinabove, respondent No.1 is directed to reconsider the claim of the petitioner and file his own affidavit along with the action taken report before the next date of hearing, failing which he shall come present before this Court on the next date of hearing.

List on 13.11.2014.”

Pursuant to the aforesaid order, the respondents have offered the amount of ₹ 2.50 lacs to the petitioner in terms of 2003 policy.

Counsel for the petitioner has argued that in view of the order dated 6.10.2014, it is clearly the fault of the respondents that the payment which should have been made in 2004, has been delayed now for 11 years and the petitioner cannot be deprived of the interest thereon.

Counsel for the respondents is not in a position to defend the order of 2004 rejecting the claim of the petitioner (on the ground of delay).

The order dated 6.10.2014 also indicates that it was the fault of the respondents in delaying the just claim of the petitioner. Resultantly, the limited prayer made today by counsel for the petitioner is allowed and it is directed that the petitioner be paid the amount of ₹ 2.50 lacs with interest @ 8% pa w.e.f 17.11.2004 i.e the date on which her claim was initially rejected. The interest shall be calculated till the date when the payment is actually made to the petitioner.

This writ petition stands disposed of in the above terms.

(AJAY TEWARI)
JUDGE

March 17, 2015
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