

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 696 of 2008

Date of decision: 3.12.2016

Rajesh Kumar

... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. RK Malik, Sr. Advocate, with
Ms. Rimple Kadyan, Advocate,
for the petitioner.

Mr. JS Bedi, Advocate
for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

Notice to the respondent-Nigam.

Mr. J.S. Bedi, Advocate, accepts the notice on behalf of the respondents and waives service on them.

Heard.

Having regard to the totality of the circumstances presented and keeping in view the date of death of the father of the petitioner in January, 2005 and the non-availability of vacancy within the 5% of the vacancies in the cadre strength available during the 3 years from the date of death of the bread-earner, there appears to be no error apparent on the face of record in the decision of the Nigam refusing to offer compassionate appointment to a dependent of the deceased Lineman who expired while in service. However, there can be no doubt that the petitioner's family would be entitled to monthly financial assistance in terms of the Haryana Compassionate Assistance to the Dependents of the Deceased Government

Employees Rules, 2006, which provides the methodology of award of financial assistance in different circumstances according to the age at the time of death etc. This is for the reason that the Rules of 2006 breath life into pending cases and the petitioner's case can be properly accepted as a case pending for consideration either for compassionate appointment or for the alternative relief of money. Keeping in view the law in MGB Gramin Bank v. Chakarvarty Singh, (2014) 13 SCC 583 and State Bank of India & anr. v. Raj Kumar, (2010) 11 SCC 661, the relevant date in such cases would be the date of consideration where consideration has either not taking place or the issue is under litigation.

In view of above, the petitioner may apply for consideration of his case under the Rules of 2006 and the competent authority will process the claim in accordance with law and on completion of all formalities, remit the financial assistance either in lump-sum or in the shape of salary, as then case may be, and/or arrears thereof within a period of 3 months from the date of receipt of certified copy of this order. Accordingly, the petitioner may exercise option within one week under the new scheme.

The petition is partially allowed as above.

(RAJIV NARAIN RAINA)
JUDGE

3.12.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*