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

**CWP-1869-2023 (O&M)
Date of Decision: 31.01.2023**

Raj Bala and another

.. Petitioners

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gursher Singh Bhandal, Advocate for the petitioners.

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed under Article 226 Constitution of India for issuance of a writ in the nature of certiorari seeking quashing of impugned order dated 18.10.2022 (Annexure P-13) passed by respondent No.2, whereby the claim application filed by the petitioners under the Employees Compensation Act, 1923 was dismissed.

Learned counsel has argued that Ram Phal, husband of petitioner No.1 and father of petitioner No.2 was employed as Assistant Lineman with the then Executive Engineer (Operation) Division erstwhile Haryana State Electricity Board (HSEB), Hansi, who unfortunately expired while on duty in a fatal accident on 30.04.1983 and at the time of his death, the Employee's Compensation Act, 1923 was applicable. The petitioner No.1 after the death of her husband submitted an application for self employment under the Ex-gratia scheme, which was sent by XEN (OP), Hansi to SE (OP) Circle, Bhiwani for the post of peon. The said application of the petitioner No.1 was further forwarded by SE (OP) Circle, Bhiwani to CE (OP), HSEB, Chandigarh for consideration, but no response was

received, therefore, she again applied to the respondent authority in the year 1995, but again no action was taken upon the subsequent application. Thereafter, in the year 2001, petitioner No.2 on attaining majority approached the respondent authority for appointment under ex-gratia scheme, but no appointment was given to her, so a legal notice dated 20.08.2004 (Annexure P-4) was served upon the respondents calling upon them to appoint petitioner No.2 and also to pay her monetary compensation. As per averments, neither any appointment was offered nor any compensation was given to the petitioners, therefore, the petitioners had filed CWP No.3985-2019 to claim compensation, however, the same was dismissed as withdrawn on 14.02.2019 with liberty to approach the competent authority, under Employees Compensation Act, 1923. Thereafter, the petitioners filed an application before respondent No.2 praying for grant of compensation of Rs.80,000/- with interest @ 12% p.a. on account of death of Ram Phal, along with separate application seeking condonation of delay.

The claim of the petitioners was duly contested by respondent No.2 by filing reply and after considering the pleadings and submissions of the parties, the claim application was dismissed by the Commissioner under the Employee's Compensation Act, 1923, Hisar on the sole ground of delay.

No doubt, the impugned order is appealable, but since the claim of the petitioners is declined on the sole ground of delay without touching the others issues, this Court is not inclined to relegate them to the alternative statutory remedy of appeal considering the peculiar background of this case.

After hearing the learned counsel and examining the material on record, this Court finds that husband of petitioner No.1 and father of

petitioner No.2, namely, Ram Phal died on 30.04.1983, whereas the claim application was filed on 30.04.2019 i.e. after 36 years and during the course of hearing, learned counsel is unable to explain the inordinate delay in filing the claim petition. Apart from it, a perusal of the impugned award shows that the findings returned by the Commissioner, Hisar against the petitioners on material issue of delay are based upon proper appreciation of evidence on record.

Resultantly, this Court does not find it to be a fit case for exercise of extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

31.01.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No