

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

CR No. 884 of 2016

DATE OF DECISION :- May 05, 2023

Jaswinder Kumar

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Ranjit Saini, Advocate for the petitioner.

Mr. Prateek Mahajan, Advocate
with Mr. Jaskirat Singh, Advocate for the respondents.

Plaintiff Jaswinder Kumar had filed a suit against defendants Uttar Haryana Bijli Vitran Nigam Limited, Panchkula etc. challenging order vide which his claim for appointment on compassionate grounds on account of death of his father Sh. Ishar Singh, who was working as Assistant Lineman with Uttar Haryana Bijli Vitran Nigam Limited, during service period had been rejected.

That suit after contest was decreed by Additional Civil Judge, Senior Division, Ambala vide judgment and decree dated 21.5.2011 and the impugned order was declared as wrong and ordered to be set aside with the observations that the claim of plaintiff is liable to be considered in accordance with instructions, rules and policy of the State government prevalent at the time of death of Ishar Singh, father of plaintiff on 30.6.2001.

Feeling aggrieved by the said judgment and decree, the defendants has preferred an appeal before District Judge, Ambala, which

was assigned to Additional District Judge, Ambala, who vide judgment and decree dated 3.1.2013, while dismissing the appeal had clarified that anything mentioned in the judgment/decree passed by that Court or impugned judgment/decree passed by the trial Court shall not determine the eligibility of the plaintiff for appointment on compassionate ground meaning thereby his case shall be considered by the defendant if he is/was eligible as per rules prevalent on 30.6.2001. The plaintiff then approached the Court of Civil Judge, Junior Division, Ambala seeking execution of decree in his favour wherein defendants-JDs appeared and had filed objections which were disposed of vide impugned order dated 20.4.2015.

Learned Civil Judge, Junior Division, Ambala issued a direction to JDs to again consider strictly regarding the appointment to be given to Jaswinder Kumar on compassionate grounds, the application was disposed of. However, a typographical correction in the date was carried out vide order dated 29.4.2015 (Annexure P-5). The plaintiff decree holder had then approached the Executing Court by filing application under Order 21 Rule 32 and 37 for taking action against JDs for not complying with the direction contained in judgment and decree dated 21.5.2011 and order passed by the Court in execution.

That application was disposed of vide order dated 20.5.2015 with the observations that execution application relating to the case had already been decided and file had been consigned to record room vide order dated 20.4.2015. Accordingly, the application was dismissed with the observations that the decree holder was free to take recourse to independent remedies available to him.

Feeling aggrieved by such orders passed by the Executing Court the plaintiff decree holder has filed the present revision petition before this Court, notice of which was give to respondents, who have put in appearance through counsel.

During course of proceedings on a direction issued by this Court the JDs have passed a detailed order bearing office order No. 250 dated 26.9.2017 vide which it has been concluded as follows :-

“That Nigam from the above seniority list under Class-IV category could offer ex-gratia employment to the dependents of these employees, who had died December 1999. The case of Sh. Jaswinder Kumar pertains to year 2001 and there are still 141 dependents who are senior to him in the above said list and list of ex-gratia was valid up to 1.7.2009.

As the office of General Managar/Admn. UHBVN, Panchkula vide memo no. Ch-190/UH/Pen/E-393 dated 16.3.2007 to submit her option for accepting cash financial assistance to the tune of rupee 2.5 lakh in terms of ex-gratia rule, 2003, but she did not opt for the same. In view of the above, the claim of Sh. Jaswinder Kumar for appointment on compassionate grounds in terms of ex-gratia policy prevalent on 30.06.2001 is not feasible for acceptance being time barred and the same is hereby rejected.”

The revision petitioner was not satisfied with the order contending that some similarly placed persons have been given appointment on compassionate ground. Now the matter is pending before this Court.

After hearing learned counsel for the parties and going through the record, I find that the Executing Court fell in error in dismissing the execution application without directing the JDs to pass a detailed order in terms of directions issued by the trial Court and First Appellate Court. That exercise had to be done by this Court. It is for the Executing Court to

consider the matter and pass appropriate orders in accordance with law. Therefore, the impugned orders are set aside and the matter is remanded to the Executing Court of Civil Judge, Junior Division, Ambala with a direction to proceed further with regard to the matter of granting employment on compassionate grounds to the plaintiff decree holder after examining the order passed in this case by the respondent JDs and the objections raised by plaintiff decree holder to the order in light of judgment and decree passed by the trial Court and first Appellate Court. It is for the Executing Court to interpret the orders irrespective of the observations made by this Court in this order or any interim order passed in this case.

The parties through counsel are directed to appear there on 26.5.2023. The Registry is directed to send copy of the order passed by the respondents-JDs along with copy of objection petition raised to by the plaintiff decree holder in the form of notices and Annexures as well as affidavits filed on behalf of respondents JDs. Every effort be made to dispose of the matter expeditiously.

(H.S. MADAAN)
JUDGE

May 05, 2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No