

CWP-7112 of 2022 (O&M) and
CWP-8715-2022

235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:121577

1. CWP No. 7112 of 2022 (O&M)
Date of Decision: 06.07.2023

RAJESH KUMAR

.....PETITIONER

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED & OTHERS

....RESPONDENTS

AND

Neutral Citation No. 2023:PHHC:121578

2. CWP No. 8715 of 2022

PAWAN KUMAR @ PAWAN DESWAL

.....PETITIONER

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED & OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Parminder Singh, Advocate
for the petitioner(s)

Mr. Satyam Tandon, Advocate
for respondents no. 1 to 4

SANDEEP MOUDGIL, J

1. Vide this common order, this Court intends to dispose of both the afore-said writ petitions, which involve similar set of facts and identical common question of law.

2. To avoid any repetition, the facts are being taken from CWP No. 7112-2022.

3. The jurisdiction of this Court under Articles 226 and 227 has been invoked for issuance of a writ in the nature of *Certiorari* for quashing

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of the impugned order dated 17.06.2021 (Annexure P-2) with further prayer for issuance of a writ in the nature of *Mandamus* to direct the respondents to consider the representations dated 08.7.2021 and 13.07.2021 (Annexures P-4 & P-5).

4. Learned counsel for the petitioner contents that petitioner was recruited on the post of Assistant Line Man (ALM) on DC rates on 10.06.2007 and has been regularly doing the duties of ALM on the feeder. He submits that the petitioner was given the charge of complaint centre whereas Manjeet Singh (since deceased) was given the charge of Mandi AP feeder and on the fateful day Manjeet Singh (since deceased) asked the petitioner to help him on his feeder as due to storm many electrical poles had fallen disrupting the electricity supply of the area. It is asserted that while Manjeet Singh (since deceased) was working on repairing the electricity lines and due to reverse current passed through generator set used by an agriculturist, Manjit Singh was electrocuted. Further assertion is that the petitioner being at the lower rank has been given the initial blame and wrongly placed under suspension. Moreover, he relies upon the cancellation report of the FIR and preliminary enquiry of the unfortunate incident in which it was found that there is no fault of the petitioner as there was no electric supply from the side of power house and in addition, it has been recorded that the cause of death is the reverse flow electric current came from the generator set used by the agriculturist.

5. On the other hand, Mr. Satyam Tandon learned counsel appearing for respondents argues that the petitioner is not directly employed by answering respondents and is a part of outsourcing agency i.e Shri JEE Man Power Contractors Pvt. Ltd. According to him the contractor has not been impleaded as a party. A reference has been placed upon para 3 of

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written statement wherein they have in detail mentioned about the fault of the petitioner which is supported by the investigating report filed by XEN Ranbir Desval (Annexure R/3), which reads thus:-

“That in reply to the contents of para no.3 of writ petition it is submitted that on 14.06.2021 at about 7:00/8:00 P.M. at 11 KV Mandi AP Feeder emanating from 33 KV Sub Station Mandi, the accident site/ Sub Station was visited by SDO, Sub Division UHBVL, Israna during the night with Line Staff and submitted that operator Sh. Pawan S.A. had racked out the VCB on request of Rajesh ALM over phone. On visiting site, some locals had doubts about possibility of the back current as they had informed that out of two broken jumpers, one was already installed by Manjeet deceased. He got electrocuted when he was trying to install second jumper. No temporary earthing was found near the accident site. To check out this possibility firstly SDO Op. Israna alongwith other staff and locals visited all Tubewell connections which were in the close vicinity of Mandi village as there were chances of consumer using both supplies of AP and DS Feeders but no such case was found. Thereafter 3-4 teams were formed in a group of 2-2 persons and each and every Tubewell connection (Fed from 11 KV Mandi AP) failing on both sides of Mandi Samalkha Road were checked. Supply of this area was disturbed since 10.06.2021 evening. Due to wind storm large number of poles had fallen down and due to this reason, no electricity supply was given to this area since 10.06.2021. Almost all the area is irrigated through electrical pump sets. Therefore, the teams were directed to check any irrigated land near each Tubewell connection. On checking, it was found that a farmer had recently (within 3-4 hours) irrigated his land through Pump set connected with 25 KVA Transformer SOP to Prithvi. Clean water was found in the Tank and drops of water found and it was also found that the land was full of wate. Even after the discovery of this fact, all remaining Tubewells were also checked and no other recently irrigated land was found there by any team. On 15.06.2021 early in the morning,

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Executive Engineer visited the site alongwith SDO, Israna and investigated the matter. During investigation, it was reported by local farmers as well as the SDO, Israna that Bindra son of Mahabir resident of Mandi had irrigated his land with generator. The aforesaid team met with said Bindra at 33 KV Sub Station Mandi and enquired the matter. During discussion, he admitted that last night he had irrigated his land with the help of generator. He claimed that he had opened Go switch before using generator and had connected generator output on upward fixed contact point of fuse board, but on visiting the site, Go Switch was found in closed position and there was no mark of connection of any contact of fuse unit. Moreover cable which was claimed to be used by him was also found loose in contact points. An open joint in cable coming from Transformer was also found. He claimed that other farmers had also used alternator but no other recently irrigated land was found in joint visit. After the site visit, all the details were also analyzed. At 19.16 hours, Shri Rajesh ALM made a call to Pawan Kumar SA on official mobile phone for switching off the feeder and removing the trolley of VCB. Pawan SA was on duty at 33 KV Sub Station Mandi. After having clearance from Pawan SA, jumpers of HT line was connected by contractor's labour. At 19.27 hours, Rajesh ALM again called Pawan Kumar SA on his official mobile phone and requested him to take a try of 11 KV line. The 11 KV line was tripped and did not hold. During the recorded conversation on mobile, the voice of Rajesh Kumar and Manjeet ALM were audible. At 19:34 hours, Rajesh ALM again called Pawan Kumar SA for switching off and removing the trolley of 11 KV Mandi AP Feeder for attending the fault. During this recorded conversation, the voice of Rajesh and Pawan is audible and voice of removing the trolley of VCB is also audible. At 19:38 hours, Rajesh ALM again called and enquired about source of supply. From this it can be concluded that the accident occurred between 19:34 and 19:38 hrs. The Meter Data of M/s Inventive (MRBD Agency) and was received in Excel form on official Email id of SDO Israna at 12:03 hrs on 16.03.2021. On analysis of Data it was found that feeder was

running up to 19:00 hrs showing current and consumption in part half an hour i.e. 18:30 hours to 19:00 hours. During 19:00 hours to 19:30 hours, heavy current is shown but no consumption i.e. supply was switched on during this period for taking a try of 11 KV Mandi AP Feeder. After 19.30 hours no current or consumption was shown in load survey. This fact rules out the possibility of current travel through Sub Station or rack in of VCB. The crossing of feeder with 11 KV Mandi RDS and 11 KV Amar Hatchery was also checked and found sufficient via. This accident could have been averted if the safety precautions were taken by the victim before starting the work. On enquiry these facts were analyzed by the Executive Engineer, Suburban Division. It was analyzed that the alternator was switched on after installation of one jumper and back current of the alternator caused the accident due to absence of temporary earthing. If proper earthing was made by the deceased, then chance of accident would be nominal and fatal accident could have been avoided. Moreover if Bindra son of Mahender had properly connected the alternator after isolating his installation from Nigam's infrastructure, then also the accident could have been prevented. In enquiry it was found that Rajender Kumar JE is also responsible, as he has failed to supervise the work properly which was being carried out by his Live Staff in the area. Similarly Rajesh ALM son of Raj Kumar is responsible for not directing/advising the deceased to use safely precautions and Pawan SA son of Wazir is responsible for racking out Trolley without taking permit only on the request of deceased and Rajesh ALM and they are also equally liable for the accident in question. Thereafter a draft charge-sheet against Rajender Kumar JE had been prepared and forwarded to SE Op. Circle, UHBVL, Panipat by the office of Executive Engineer vide office memo No.CS-81/EP-5687 dated 17.06.2021 and directed the Labour Contractor i.e. M/s Shree Jee Manpower Contractors Pvt. Ltd., Mathura Road, Faridabad for replacement of Rajesh ALM (contractual basis) and Pawan SA (contractual basis) with immediate effect.”

6. Heard, learned counsel for the respective parties.

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7. From perusal of the investigation report and submissions made hereinabove, it is abundantly clear that the petitioner-Rajesh (ALM) is responsible for not directing Manjeet Singh to use safety precautions and Pawan, SA (petitioner in CWP-8715-2022) is responsible for racked out trolley merely on the request of Manjeet Singh (since deceased) without taking necessary permit.

8. In view of the discussion made hereinabove, and after going through the material on record, this Court is convinced to hold that the accident could have been averted if the proper safety precautions before starting the work should have been ensured & proper earthing was installed at the site.

8. In view of discussions made hereinabove, this Court does not find any merit in these petitions, accordingly, the same are dismissed.

9. A copy of this order be placed on the file of another connected petition.

July 06, 2023
sham

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>