

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

202-1

**CWP-2977-2016 (O&M)
Date of Decision: 09.02.2023**

SIMLA DEVI

... Petitioner

VERSUS

HARYANA VIDYUT PRASARAN NIGAM LTD. AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rajesh Arora, Advocate
for the petitioner.

Mr. Narinder Vashisht, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Certiorari while raising a challenge to the reply dated 06.11.2015 (Annexure P-6) whereby the claim of the petitioner for compensation on account of death of her husband due to electrocution has been declined.

It has been stated in the instant petition that Mahavir Singh, deceased husband of the petitioner was a retired Subedar from Indian Army and was under civil re-employment as Supervisor with M/s Gas Authority of India Ltd. at NTPC, Munjeri. On 24.04.2015, deceased Mahavir Singh had gone to the roof top after taking bath for checking the water tank, when he came in contact with low height high tension electricity line of 66 KW. The information in this regard was sent to the police and a DDR dated 24.04.2015 was duly recorded. The death certificate of deceased Mahavir Singh was also issued by the competent Authority mentioning the cause of death as

‘electrocution’. Copy of the death certificate dated 14.05.2015 has also been appended alongwith the present petition as Annexure P-3.

Written statement on behalf of the respondents No.1 to 4 has been filed, wherein they have specifically averred that Mahavir Singh had died due to his own negligence and that the 66 KW electric line was in existence at the spot ever since 1992. It is stated that the construction of house had been illegally raised by the deceased and that the commissioning of the high tension wire was in accordance with the regulations approved by the appropriate Commission. It is also averred that there was a prohibition of raising construction within a radius of 09 meters of the 66 KW electric line and the deceased having himself violated the mandate of the statute cannot thereafter seek fastening of any liability against the respondent-Department.

Learned counsel for the petitioner, however, disputes that the said construction was unauthorized. He submits that the construction had been raised in accordance with law after seeking all necessary approvals from the competent authorities. He also points out that an interim compensation of Rs.3,00,000/- has already been awarded to the petitioner vide order dated 31.05.2017 and that the said compensation stands disbursed as well.

Be that as it may, the present petition raises disputed question of fact with regard to the negligence, if any, by the petitioner and/or the respondents-Distribution Licensee and also as to whether the constructions had been raised in accordance with law or not. The High Court, thus, would not be an appropriate Forum to adjudicate upon the dispute questions of facts.

Faced with the above, learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to the petitioner to take recourse to the appropriate remedies available to him in accordance with law

for seeking compensation for the aforesaid incident. The Compensation already released pursuant to the interim orders passed by this Court is, however, protected.

Disposed of as withdrawn with the liberty as aforesaid.

09.02.2023.
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No