IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

230 **CWP-36395-2019 (O&M)**
Date of Decision:15.07.2024

Anar Kali and others

......Petitioners

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and others

......Respondents

CORAM:HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. R.S. Sihag, Advocate for the petitioner.

Mr. Rajesh Gaur, Advocate for the respondents.

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JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to settle claim/make payment to the petitioners being dependents of the deceased Late Sh. Dhara Singh who worked with the respondent-department, in terms of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules 2006.

2. The brief facts of the present case are that the present petitioners are the legal heirs of one Dhara Singh who was working as a Regular Work Mate (RWM) in the office of respondent-Dakshin Haryana Bijli Vitran Nigam Limited (hereinafter to be referred to as 'Nigam') who falls in Group-D. Petitioner No.1 is the widow, petitioner No.2 is the daughter and petitioner No.3 is the son of aforesaid Dhara Singh. Aforesaid Dhara Singh died on 20.06.2002 while he was in service. After the death of husband of petitioner No.1, she made a request dated 30.03.2005 to respondent-Nigam for grant of compassionate employment by way of compassionate appointment to her son vide

Annexure P-2. The petitioner No.3 i.e. the son of deceased Dhara Singh was 16 years of age at that point of time and was a minor. However he attained the age of majority after about two years and therefore could have been considered for compassionate appointment but no action was taken by the respondent-Nigam on the application as aforesaid. Thereafter in the year 2005 vide Annexure P-3, petitioner No.1 was informed by the Superintending Engineer/Admn., DHBVN, Hisar, that ex-gratia employment cannot be given to her son due to the reasons which have been mentioned in the letter pertaining to 5% quota etc. It was further stated in the aforesaid letter that her case for compassionate financial assistance for Rs.2.5 lacs will only be considered in terms of rules adopted and circulated by the office. However, despite the aforesaid letter for considering the case of the petitioner for grant of compassionate financial assistance, no action was taken by the respondent-Nigam in this regard as well. Thereafter in the year 2011, petitioner No.1 was granted financial assistance/compassionate assistance of Rs.2.5 lacs vide letter dated 19.09.2011 (Annexure P-6). In the present case, the petitioners are claiming the financial assistance in terms of notification of November 2006 (Annexure P-4) issued by the Government of Haryana in exercise of powers conferred by the proviso to Article 309 of the Constitution of India.

3. Learned counsel for the petitioners submitted that at the time of death of aforesaid Dhara Singh on 20.06.2002, petitioner No.1 who is the widow was of the age of 33 years, petitioners No.2 and 3 were minor. The petitioner No.1 is an illiterate lady who became widow in the year 2002. Thereafter, petitioner No.2 who is her daughter got married and petitioner No.3 studied only upto 10+2. He further submitted that State of Haryana had issued various policies as welfare

measures for grant of compassionate assistance/financial assistance from time to time with the object to grant benefit to the dependents of the employee when he dies while in service. He further submitted that the aforesaid Dhara Singh was worker of Group-D and the petitioners did not have any other source of income and therefore they are entitled for the grant of benefits which accrued to them in terms of the aforesaid notification issued by the Haryana Government from time to time but the same have been denied. He also submitted that all the notifications issued by the Government of Haryana, are applicable to the respondent-Nigam regarding which there is no dispute nor the same has been raised by the respondent-Nigam.

4. He further submitted that the respondent-Nigam did not grant the benefit of compassionate appointment to the son of aforesaid Dhara Singh but had themselves so stated in Annexure P-3 in the year 2005 that the case of petitioner No.1 can be considered for grant of compassionate financial assistance of Rs.2.5 lacs in accordance with the rules and the same was also not given to her and the same was given to her in the year 2011 vide Annexure P-6. He further submitted that in the meantime in the year 2006 another policy of the State of Haryana came into being which was framed under the proviso of Article 309 of the Constitution of India which has been annexed alongwith the present petition as Annexure P-4. The earlier policy was of the year 2003 which is also annexed with the present petition at Annexure P-1. While referring to earlier policy at Annexure P-1, he submitted that with an object to assist the family of the deceased employee for tiding over the emergency situation, resulting from the loss of bread earner, an option is to be exercised with regard to either grant of ex-gratia appointment on compassionate ground or ex-gratia compassionate financial assistance to

the family of deceased, over and above all the other benefits to the extent of 2.5 lacs. He further submitted that although the petitioner had applied for grant of compassionate employment for her son but the same was rejected because of being in excess of 5% quota and it was also the case of the respondent-Nigam themselves which has been so incorporated vide Annexure P-3 that which was issued in the year 2005 that her case for compassionate assistance can be considered to the extent of Rs. 2.5 lacs in terms of policy of 2003 which was in existence at that point of time.

5. Learned counsel submitted that no financial benefits at all were given to her and in the meantime, policy of 2006 (Annexure P-4) came into being which had the force of law. As per the aforesaid policy, it has been so provided under Clause 5 that on the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that were last drawn by the deceased employee in the normal course without raising a specific claim and different scales have been mentioned pertaining to the remaining period of service. He further referred to Clause 6 of the aforesaid policy which provides that all the pending cases of ex-gratia assistance shall be covered under the new rules and since the petitioner did not receive any compassionate assistance or financial assistance at the time when the aforesaid policy came into being, therefore, she is entitled for the benefits of financial assistance which accrued to her in terms of Rules 5 and 6 of the aforesaid policy at Annexure P-4 which was denied to the petitioners but in order to circumvent the applicability of the aforesaid policy of the year 2006 to the petitioners, the respondent-Nigam has very cleverly given Rs.2.5 lacs to petitioner No.1 in the year 2011 vide Annexure P-6.

He further submitted that after coming into force the aforesaid policy of 2006, the petitioner is entitled for the grant of financial assistance in terms of Rule 5 of the aforesaid policy of the year 2006 and not in terms of earlier policy of the year 2003. Learned counsel for the petitioners further contended that after the aforesaid policy of the year 2003, another policy came in the year 2005 which was prevalent for a short span of time and ultimately in terms of Rule 8 of the policy of 2006, the aforesaid policy of 2005 was repealed. In this way the policies of the years 2003 and 2005 stood repealed and were not in existence after the policy of the year 2006 came into force and therefore there was no justification for the respondent-Nigam to have granted to the petitioner No.1 a sum of Rs.2.5 lacs in the year 2011 in terms of the repealed policy and she is entitled only for the grant of financial assistance in terms of Rule 5 of the 2006 policy.

6. On the other hand, learned counsel for the respondent-Nigam, submitted that when the petitioner No.1 applied for the grant of compassionate appointment for her son, the same could not have been given to him at that point of time because he was minor and thereafter as well after attaining the age of majority, the same could not be given to him because it was in excess of the 5% quota and that was the reason as to why it was conveyed to the petitioner No.1 that compassionate appointment cannot be granted and only compassionate assistance of Rs.2.5 lacs will be considered in terms of existing rules vide Annexure P-3. He further contended that it was in pursuance of the aforesaid Annexure P-3 that the financial assistance of Rs.2.5 lacs has been given to petitioner No.1 in the year 2011 and therefore now the petitioner No.1 cannot seek any benefit under the policy of the year 2006.

7. Learned counsel for the respondent-Nigam during the course of arguments referred to one letter issued by the Chief Secretary to Government of Haryana to all the officers which is in the nature of clarification and which states that when any PPO/GPO has been issued in case of death occurred prior 01.08.2006, the Haryana Compassionate Assistance to the dependents of deceased Government Employees Rules 2006 cannot be made applicable. The aforesaid letter is not on the record but since it has been produced during the course of hearing, the same is hereby taken on record as 'Mark X'. He further submitted that in pursuance of the aforesaid letter issued by the Chief Secretary to Government of Haryana, the petitioner No.1 has been granted compassionate assistance of Rs.2.5 lacs and as such she is not entitled for the grant of benefit in terms of Rule 5 of 2006 policy. He further referred to Rules 4 and 6 of 2003 policy vide Annexure P-1 to contend that the option was to be exercised within a period of three years from the date of death of the Government employee and as per Rule 6 (c) of the aforesaid policy when the dependent of the deceased Government employee can exercise his preference with regard to option as contained in clause (b) of sub rule (1) of rule 4 of these rules within a period of one month after the expiry of the validity of the list prepared by the department, if no post exist in the department for ex-gratia appointment. Since the petitioner No.1 did not exercise the aforesaid option within one month, she was not entitled for the grant of Rs.2.5 lacs in terms of policy of the year 2003 and therefore the present petition deserves to be dismissed.

8. I have heard learned counsels for the parties.

9. The present is a case in which the petitioner No.1 is a widow and she was only 33 years of age at the time of death of Dhara

Singh. Petitioner No.2 is the daughter who was of the age of 17 years and petitioner No.3 is the son of the age of 16 years at the time of death of aforesaid Dhara Singh. The petitioner No.1 is stated to be an illiterate lady. After the death of aforesaid Dhara Singh on 20.06.2002, the petitioner No.1 applied for grant of compassionate employment for her son within a period of three years vide Annexure P-2. At that point of time, the son of the petitioner was major since he had attained the age of majority. However the respondent-Nigam did not grant the benefit of compassionate appointment to the son of petitioner No.1 vide Annexure P-3. The reasons which have been mentioned in Annexure P-3 dated 30.05.2005 were that the compassionate appointment can only be made upto a maximum of 5% of sanctioned posts and the ex-gratia employment cases are dealt strictly as per seniority taking into account the date of death of employee in each case. However, it is stated in the present case that it was not finalized within a period of three years from the date of issuance of the Haryana Compassionate Assistance Rules 2003 and due to non fulfilment of all the conditions within a period of three years from the date of death of the employee and also due to non-availability of vacancies as laid down in the rules, the case of the petitioner for grant of compassionate financial assistance of Rs.2.5 lacs only will be considered in terms of the prevailing rules.

10. The relevant portion of the aforesaid Annexure P-3 dated 30.05.2005 which was written by the Superintending Engineer/Admn. DHBVN, Hisar, to the present petitioner No.1 is reproduced as under:-

> *"This is to inform you that the seniority list of ex-gratia employment cases has been maintained in this office 01.04.3003, in accordance with the provision of rule 6(1) sub*

rule (a) & (b) of the Haryana Compassionate Assistance to the dependents of deceased Govt. employees Rules-2003.

According to rule 9 (b) of the ibid Rules-2003 the appointments can be made upto maximum of 5% of sanctioned posts (falling under direct recruitment quote in group C&D categories).

The ex-gratia employment cases are dealt strictly as per seniority taking into account the date of death of employee in each case. However if your case is not finalized within a period of three years from the date of issue of the Haryana Compassionate Assistance Rules-2003 or within three years from the date of death of employee due to non-fulfillment of all the conditions as laid down in the Rules or due to non-availability of vacancies for the purpose, your case for compassionate financial assistance for Rs. 2.5 lacs will only be considered in terms of ibid Rules adopted & circulated vide this office memo No.Ch-12/EXG-3 dt.16.5.03 read with memo No.Ch-29/EXG-3 dt.10.3.04 and memo No.Ch-38/EXG-3 dt.13.09.04 respectively."

This issue with the approval of Superintending Engineer/Admn., D.H.B.V.N., Hisar.

11. In order to consider the claim of the petitioner for grant of benefit in terms of Rule 5 of 2006 Rules it will be necessary to peruse and consider the provisions of the aforesaid policy which is annexed at Annexure P-4. The aforesaid policy of the year 2006 at Annexure P-4 is reproduced as under:-

"*Annexure P-4*

HARYANA GOVERNMENT
GENERAL ADMINISTRATION DEPARTMENT
NOTIFICATION
The November, 2006

No. - In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Haryana hereby makes the following rules to grant the compassionate assistance by way of ex-gratia financial *assistance on compassionate grounds to members of the family of a deceased Government employee who dies while in service/missing Government employee, namely: -*

1. (1) These rules may be called the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006.

(2) They shall come into force at once.

2. The object of the rules is to assist the family of a deceased/missing Government employee of Group A, B, C & D category, in tiding over the emergent situation, resulting from the loss of the bread-earner by giving financial assistance.

3. The eligibility to receive financial assistance under these rules shall be as per the provision in the pension/family pension scheme, 1964.

4 An eligible family member of the deceased/missing Government employee shall make an application in Form A for compassionate financial assistance.

5. (1) On the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim,-

(a) for a period of fifteen years from the date of death of the employee, if the employee at the time of his death had not attained the age of thirty-five years;

(b) for a period of twelve years or till the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty-five years but had not attained the age of forty-eight years;

(c) for a period of seven years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee had attained the age of forty eight years.

(2). The family shall be eligible to receive family pension as per the normal rules only after the period during which he receives the financial assistance as above is completed.

(3) The family of a deceased Government employee who was in occupation of a Government residence would continue to retain the residence on payment of normal

rent/license fee for a period of one year from the date of death of the employee.

(4) Within fifteen days from the date of death of a Government employee, an ex-gratia assistance of twenty five thousand rupees shall be provided to the family of the deceased employee to meet the immediate loss of the bread earner.

(5) House Rent Allowance shall not be a part of allowance for the purposes of calculation of assistance.

6. All pending cases of ex-gratia assistance shall be covered under the new rules. The calculation of the period and payment shall be made to such cases from the date of notification of these rules. However, the families will have the option to opt for the lump sum ex-gratia grant provided in the Rules, 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules 2006.

7. If any doubt arises relating to the application, interpretation and scope of these rules, it shall be referred to the Government in the department of General Administration (In General Services-II Branch) whose decision thereon shall be final.

8. The Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005, which are in force immediately before the commencement of these rules are hereby repealed:

Provided that families will have the option to opt for the lump sum ex-gratia grant provided in the rules 2003 or 2005, as the case may be, in lieu of the monthly financial assistance provided under these rules:-

Provided further that in all pending cases where the family exercises the option to receive the financial assistance under these rules, the calculation of the period and payment shall be made from the date of notification of these rules.

Sd/-

Chief Secretary to Government Haryana"

12. The aforesaid policy vide Annexure P-4 would show that it has been issued in exercise of the powers conferred by the proviso to

Article 309 of the Constitution of India for grant compassionate assistance by way of ex-gratia financial assistance on compassionate grounds to members of the family of deceased Government employee who dies while in service/missing Government employee. The aforesaid Dhara Singh was working in the respondent-department in Group-D category and in terms of Rule 2, the present policy applies to category D as well for the purpose of tiding over the emergent situation resulting for the loss of bread earner by giving financial assistance. Rule 5 provides that on the death of any Government employee, the family of the employee would continue to receive as financial assistance a sum equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim on the basis of the remaining length of service.

13. Rule 6 specifically provides that all the pending cases of ex-gratia assistance shall be covered under the new Rules. It is further provided that the families will have the option to opt for the lump sum ex-gratia grant provided in the Rule, 2003 or 2005 as the case may be, in lieu of the monthly financial assistance provided under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules 2006.

14. In the present case the petitioner No.1 did not exercise any option which is so provided in Rule 6 nor there is anything on record to show that any such option was exercised that she wanted to opt 2003 or 2005 Rules. Therefore, the first part of Rule 6 would apply to the present petitioners which provides specifically that all the 'pending cases' of ex-gratia assistance shall be covered under the new rules.

15. Another question which would arise for consideration in the present case is as to whether the petitioner is covered under the

expression "all the pending cases of ex-gratia assistance shall be covered under the new rules." or not. The facts of the present case make it very clear that after the death of husband of the petitioner No.1 in the year 2002, she applied for ex-gratia compassionate employment in terms of Rules of the year 2003 within the specified time frame but the same was rejected in the year 2005 and in the same letter it has been so provided that her case is to be considered now for ex-gratia financial assistance of Rs.2.5 lacs on the basis of the prevailing rules and instructions. Therefore, it is very clear that till the time the aforesaid policy (Annexure P-4) came into force in the year 2006 which has the statutory force of law, the respondents were themselves inclined to consider as to whether the petitioner vide Annexure P-3 dated 30.05.2005 is to be given the ex-gratia financial assistance of Rs.2.5 lacs or not and therefore on the face of it, it is very clear that her right for being considered for ex-gratia financial assistance was pending and therefore the case of the petitioner No.1 was fully covered by the aforesaid expression "all pending cases of ex-gratia assistance shall be covered under the new rules". When the case of the petitioner was pending for ex-gratia financial assistance then Rule 6 of the aforesaid Policy of the year 2006 was directly applicable to petitioner No.1 and therefore in terms of Rule 5, petitioner No.1 was entitled for all the benefits pertaining to ex-gratia financial assistance based upon the formula which has been so stated in Rule 5.

16. The fact that the case of the petitioner was already under consideration and was pending prior to coming into force of 2006 policy is also substantiated from the fact that in the year 2011 vide Annexure P-6, the petitioner No.1 had been granted the aforesaid amount of Rs.2.5 lacs and therefore it becomes crystal clear that the petitioner No.1 was

entitled for Rs.2.5 lacs in terms of 2003 policy which was pending at the time of coming into force of 2006 policy and therefore she had to be considered in terms of Rule 6 of the aforesaid policy of 2006 because her case was pending. When Rule 6 of the 2006 policy applies directly to petitioner No.1 then Rule 5 will automatically come into play and petitioner No.1 is clearly entitled for the benefits which have been provided in terms of Rule 5 of 2006 policy.

17. Learned counsel for the respondent-Nigam raised an argument that some instructions issued by the Chief Secretary to Government vide 'Mark-X', whereby he has so directed to some of the officers of the State of Haryana that where PPO/GPO have been issued in case of death occurred prior to 1.8.2006 then the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 cannot be made applicable in such cases. The aforesaid letter issued by the Chief Secretary to Government of Haryana is purely administrative letter in the nature of clarification. However, the Rules/2006 policy have been framed and issued under proviso of Article 309 of the Constitution of India which are enforceable and which have the force of law. A subsequent letter issued by any officer of the State of Haryana including that of the Chief Secretary in the nature of administrative instructions cannot override the aforesaid rules which have been framed under Article 309 of the Constitution of India. A Division Bench of this Court in ***CWP-4078-2008*** titled as ***Raj Kumari Vs. Uttar Haryana Bijli Vitran Nigam Ltd.and others*** observed as under:-

> *8."The action of the respondents in withdrawing order dated 13.03.2007 on account of subsequent amendment, on that basis the amendment made by the State of Haryana on 9.8.2007 (R-1) is absolutely unwarranted and, therefore unsustainable in*

the eyes of law because the 2006 Rules have been framed under Article 309 of the Constitution and the letter dated 9.8.2007 (R-1) has been issued by the Financial Commissioner and Principal Secretary to Government of Haryana. It is well settled that an order passed by the Financial Commissioner cannot have the effect of wiping the rules framed under Article 309 of the Constitution, which in the present case were framed on 1.8.2006 (P-9). A perusal of the notification dated 1.8.2006 shows that the 2006 Rules have been framed under Article 309 of the Constitution. It is trite to observe that the rules framed under Article 309 of the Constitution cannot be varied, substituted or amended even by issuing executive instructions under Article 162 of the Constitution. In that regard reliance may be placed on a Constitution Bench judgment of Hon'ble the Supreme Court in the case of ***Sant Ram Sharma v. State of Rajasthan, AIR 1967 Supreme Court 1910,*** *which has been repeatedly followed, relied and applied in a number of cases including* ***Dhananjay Malik v. State of Uttranchal, 2008(2) SCT 659: 2008(3) RAJ 249 : (2008) 4 SCC 171*** *and* ***A. Manoharan v. Union of India, (2008) 3 SCC 641,*** *wherein it has been held that in any case such executive instructions cannot be given retrospective effect. In the present case, a letter issued by the Financial Commissioner, which can not even regarded as executive instructions under Article 162 of the Constitution, has been relied upon by the respondents to argue that the 2006 Rules framed under Article 309 of the Constitution (P-9) stand abrogated to adversely affect the rights of the petitioner. Such an argument apparently would not be acceptable. Therefore, issuance of impugned letters dated 21.09.2007 and 14.1.2008 (P6 & P-7) respectively, asking the petitioner to change her option once again by opting for one time lump-sum ex-gratia payment on the basis of the letter of the Financial Commissioner, dated 9.8.2007 as adopted by respondent No.1 on 6.9.2007, would be unsustainable and the same are, thus, liable to be set aside.*

For the reasons aforementioned, this petition succeeds. The impugned letter dated 21.9.2007 (p-6) and the reminder dated 14.1.2008 (P-7) are hereby set aside. A direction is issued to the respondents to release all the benefits to the petitioner as envisaged by order dated 13.3.2007 (P-5). The needful shall be *done within a period of two months from the date of receipt of a certified copy of the order.*

The petition stands disposed of in the above terms.

Petition allowed."

18. The aforesaid judgment in ***Raj Kumari's case (supra)*** was reiterated by another Division Bench of this Court in the case of ***The General Manager/Administrator, Dakshin Haryana Bijli Vitran Nigam Limited and others vs. Pehladi*** in ***LPA No.935-2012.*** Relevant portion of the same is reproduced as under:-

> ***6.*** *As pointed out above, the option is given under the Rules. These Rules were framed under proviso to Article 309 of the Constitution of India and, thus, have statutory force. The effect thereof cannot be nullified and these Rules cannot be supplanted by the administrative instructions in the manner it is to be sought vide circular dated 08.06.2007. Not only it is a trite proposition of law in respect of these very Rules, this particular proposition has been laid down by a Division Bench of this Court in* ***Raj Kumari v. Uttar Haryana Bijli Vitran Nigam ltd.and others, 2008 (4) S.C.T. 411: 2008 (4) RSJ 765."***

19. Therefore even if any such kind of clarificatory or administrative letter has been issued even by the Chief Secretary to the Government of Haryana, the same is liable to be ignored in the light of the rules which have been framed under Article 309 of the Constitution of India being directly in conflict with the aforesaid rules. In the case of any inconsistency between the rules framed under Article 309 of the Constitution of India and any subsequent administrative letters or instructions issued by the State then the rules framed under Article 309 shall prevail and any such subsequent letters are liable to be ignored. Therefore no effect can be given to the aforesaid Mark 'X'.

20. Another argument was raised by learned counsel for respondent while referring to the Rules 4 and 6 of the 2003 policy

(Annexure P-1) and he submitted that after the claim of petitioner No.1 for grant of compassionate appointment was rejected then she again had to exercise an option within a period of one month for the purpose of granting benefit of financial assistance but the petitioner No.1 had not done so and therefore she was not entitled for the benefit of compassionate assistance. The aforesaid argument raised by learned counsel for the respondent-Nigam is demolished straightaway in view of the fact that the respondents had themselves granted an amount of Rs.2.5 lacs in the year 2011 to the petitioner No.1 vide Annexure P-6. The aforesaid compassionate assistance has been granted to the petitioner No.1 appears to have been granted in terms of policy of the year 2003 because except policy of 2003 there was no other provision for the grant of Rs.2.5 lacs. Therefore such an argument raised by learned counsel for the respondent-Nigam is not sustainable at all.

21. In view of the above facts and circumstances, the present petition is allowed. The respondents are directed to grant the benefit of financial assistance to petitioner No.1 in terms of Rule 5 of the 2006 policy (Annexure P-4). Respondents are directed to calculate the arrears which accrued to petitioner No.1 after the aforesaid policy of the year 2006 came into force and after adjusting the aforesaid amount of Rs.2.5 lacs which has already been paid to the petitioner No.1, shall be paid to the petitioner No.1, within a period of three months from today alongwith interest @6% per annum (simple).

22. In case the aforesaid amount is not paid to petitioner No.1 within a period of three months from today then petitioner No.1 shall be entitled for future rate of interest @ 9% per annum (simple).

23. Considering the aforesaid facts and circumstances whereby a widow and her two children who were minor at the time of death of

aforesaid Dhara Singh had not been paid any money for about two decades and only an amount of Rs.2.5 was paid in the year 2011, this Court will take a judicial cognizance that how a poor widow with her two minor children could have survived also being an illiterate lady because of an arbitrary and perverse action on the part of the respondent-Nigam. It was the duty of the respondent-Nigam to have considered the aforesaid policy of the year 2006 for the petitioner in accordance with law. The aforesaid action of the respondent-Nigam, has therefore directly infringed the Right of Livelihood of the petitioners. The Hon'ble Supreme Court in ***Olga Tellis and others V. Bombay Municipal Corporation and others (1985) 3 SCC 545*** has observed that Right to Life under Article 21 of the Constitution of India includes Right to Livelihood. Therefore, this Court is of the considered view that in the present case, the respondent-Nigam has infringed the petitioners' Right to Life guaranteed under Article 21 of the Constitution of India.

24. In view of the above, the petitioner is entitled for exemplary costs which are assessed as Rs.1,00,000/- (rupees one lac) which will also be in the nature of compensation. The aforesaid costs shall also be paid to petitioner No.1 within a period of three months from today.

(JASGURPREET SINGH PURI)
JUDGE

15.07.2024
shweta

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No