

**CWP-3378-2021 & CWP-5274-2021****-1-**

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

201 (2 cases)**CWP-3378-2021****Date of Decision: 07.04.2025****Suresh Kumar****...Petitioner**

Versus

State of Haryana and others**...Respondents**

And

CWP-5274-2021**Satpal****...Petitioner**

Versus

State of Haryana and others**...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: - Mr. Arun Sharma, Advocate for the petitioner
(in both petitions)

Mr. Raman Sharma, Additional Advocate General, Haryana

Mr. Jagbir Malik, Advocate
for respondent Nos.2 to 8
(in CWP-3378-2021)

Mr. Raman Kumar, Advocate
for Mr. Aditya Mehtani, Advocate for respondent Nos.2 to 8
(in CWP-5274-2021)

JAGMOHAN BANSAL, J. (Oral)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from *CWP-3378-2021*.



2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 25.11.2020 (Annexure P-1) whereby respondent has ordered to recover a sum of ₹7,05,600/- from his pensionary benefits.

3. On 12.02.2021, this Court while issuing notice of motion passed the following order: -

“Petitioner who was serving on the post of Junior Engineer under the Uttar Haryana Bijli Vitran Nigam Limited retired on 30.06.2016 upon attaining the age of superannuation.

It so transpires that on 16.07.2014, a fatal accident took place whereby one Suresh Kumar died due to electrocution while he was working in the fields/ground area near a transformer. The L.Rs. of the deceased instituted a civil suit seeking compensation and such suit was decreed vide judgment dated 19.09.2017 awarding a compensation amount of Rs.11,76,000/-.

At such stage, petitioner who had already retired was served with a charge sheet dated 27.09.2019 raising an article of charge that the accident leading to the death of Suresh Kumar had occurred on account of his negligence and as such, 60% of the total amount be recovered from him.

The departmental proceedings have culminated in the passing of the impugned order dated 25.11.2020 (Annexure P-8) directing that a sum of Rs.7,05,600/- be recovered from the pensionary benefits of the petitioner.

Counsel would inter alia contend that after issuance of the charge sheet an Inquiry Officer was appointed. Inquiry report vide Memo dated 12.03.2020 (Annexure P-5) was furnished by the Inquiry Officer virtually exonerating the petitioner from any liability/negligence and by recording that at the time of accident, Sh. Zile Singh, J.E. was the area Incharge. Inquiry Officer has further recorded that at the time of accident, no complaint from any consumer regarding



any fault had been received and no entry in such regard had been made in the Complaint Register maintained by the petitioner. It is argued that the impugned order apart from being a cryptic non-speaking order does not even deal with the findings recorded by the Inquiry Officer and which were in favour of the petitioner.

Notice of motion, returnable for 06.07.2021.

In the meanwhile, recovery from the pensionary benefits of the petitioner pursuant to the impugned order dated 25.11.2020 (Annexure P-8) shall remain stayed.”

4. Mr. Jagbir Malik, Advocate submits that petitioner is relying upon report of SDO which was sought during the course of inquiry, however, report which was submitted by Inquiry Officer holds petitioner guilty of alleged accident. The petitioner has not challenged report of Inquiry Officer, thus, department has rightly decided to recover aforesaid amount from the pensionary benefits of the petitioner.

5. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

6. Relevant extracts of the report of Inquiry Officer are reproduced as under: -

Comments from SDO

The fatal accident was occurred on 11 KV Dharampuri Feeder emanating from 33 KV Sub. Station Barsat and feeder comes under jurisdiction of SDO City Sub Division, Gharaunda and all complaints were attended by City Sub Division staff and all damaged T/F are also replaced or maintained by City Sub Division Staff and after accident occurred and said T/f on which accident occurred is replaced by Sub Urban Sub Division, Gharaunda only after and when City Sub Division refused to change the same T/F and under pressure the Sub Urban Sub Division changed the said T/F



but the accident does not fall in the jurisdiction of Sub Urban Sub Division Gharaunda because the accident site is 9 Km. away from the jurisdiction of Sub. Urban Sub. Division Gharaunda. So no official under Sub Urban Sub Division is responsible for this accident. After closing the proceedings, the undersigned has gone through the whole enquiry file/case and the findings in the enquiry are as under:

After closing the proceedings, the undersigned has gone through the whole enquiry file/case and the findings in the enquiry are as under.

In view of the above facts it has come to know that the 11 KV Dharampuri Feeder is in the jurisdiction of SDO 'OP' S/Divn City Gharaunda, but this T/F/consumer where LT site accident happened, falls under the jurisdiction of SDO OP S/Divn. Sub. Urban Gharaunda. Being consumer of Sub. Urban Garahunda and dedicated T/F of consumer stands in the jurisdiction of Sub. Urban Gharaunda i.e. Consumer of Sub. Urban Gharaunda, even the damaged T/F is replaced by SDO Sub. Urban Gharaunda. In my opinion Sh. Suresh Kumar J.E. (Retd.) is responsible for this accident as he has failed to maintain the T/F and LT Line properly.”

7. On the basis of aforesaid report which is undated, the respondent passed impugned order which is reproduced as below: -

“A Charge sheet No.16/EPF-12524 dated 27.09.2019 was issued to Sh. Suresh Kumar, JE (Now Retd.) while working under SDO/OP S/Divn. UHBVN, Gharaunda for committing the following acts of omission and commission unbecoming of an employee of the Nigam:

On dated 16.07.2014 a fatal accident of Sh. Suresh Kumar (PP) S/o Sh. Sewa Ram resident of Bassi Akbarpur (Gharaunda) was occurred due to electric shock when he was working in the fields and ground area was wet near the transformer SOP to Sh. Sewa Singh S/o Sh. Bakhtawar resident of village Bassi Akbarpur where the deceased was working, he suddenly slipped down and fell new earthing of the



transformer and died due to electrocution. The leakage of current might have been passed in the earth strips of transformer due to naked joints of LT side of T/F. This accident occurred on the LT side of T/F. Sh. Suresh Kumar, JE had not done proper maintenance of T/F and LT side being the area incharge he fails to perform his duty and due to his negligency the accident happened. An amount of Rs.11,76,000/- had to be paid as compensation in compliance of Hon'ble Court order and out of which the charged official is responsible for 60% of total amount i.e. Rs.705600/-.

The defence reply of the official has been considered by the competent authority with reference to enquiry report of XEN S/U Divn. No.-I, UHBVN Karnal as well as facts/material available on record, and it is decided to recover the proposed amount of Rs.7,05,600/- from his pensionary benefits.

Accordingly, a sum of Rs.7,05,600/- be recovered from pensionary benefits of Sh. Suresh Kumar, JE (Now Retd.)

This issue with the approval of Chief Engineer (OP) UHBVN, Panchkula.”

8. From the perusal of inquiry report as well as impugned order, it is evident that petitioner has been made mechanically responsible for payment of compensation awarded by Civil Court. The petitioner retired in 2016 and charge sheet was served on 27.09.2019. There is no provision cited in the inquiry report or impugned order authorizing the respondent to recover compensation awarded by Civil Court to a consumer from the retiral benefits of an employee. As per report of jurisdictional SDO, petitioner was not responsible for the alleged offence. Civil Court has also not recorded any finding holding the petitioner guilty of alleged offence. In the absence of specific provision and finding of Civil Court holding petitioner guilty and

the fact that impugned order is cryptic as well as non-speaking, this Court finds it appropriate to set aside the impugned order.

9. Impugned order dated 25.11.2020 (Annexure P-1) is hereby set aside and petition is allowed.

(JAGMOHAN BANSAL)
JUDGE

07.04.2025
Mohit Kumar

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