High Court of Punjab and Haryana Chandigarh

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File No	CWP-2384-2005	

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Code: 87.2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. NO. 2384 /2005

Satbir Singh

..Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and another.

..Respondents

or. No. Particulars Oldo DFA —	Dated Pa	age/s <u>A(I-lo)+</u> f
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15.Annexure P/12 (Letter)	22.6.2004	35-37
16. Rouge of Actornol 2	5.2.2005	38-40.



NOTES:1) That the law points in the present petition are contained in para No.14 at page No.10.

2) Relevant Rules/Act/Statutes Article 14 & 16 of the Constitution of India.

3) Similar case if any.

The present writ petition is squarely covered by the judgment rendered by the Hon'ble Supreme Court in a case titled as Kunal Vs. Union of India, JT 2003 (2) SC 132.

FACTS OF THE CASE: -

The Hon'ble Supreme Court has interpreted the provision of section 47 (1) of "Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995" amd held that a person suffered disability during service, can not be retired from service till he attain the superannuation age.

Similar is the controversy in the present case.

4) Whether Caveat Petition has been filed in this case:

Dated:5.2.2005

Chandigarh:

(R.K.Malik) Advocate & Manvender

No

Counsel for the petitioner

-i-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. NO. 2384 /2005

Satbir Singh

..Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and another.
..Respondents

LIST OF DATES AND EVENTS

- 2.2.1955 The date of birth of the petitioner is
 2.2.1955 and he will attain the
 superannuation age on 28.2.2013.
- 26.6.99 During the service, the petitioner suffered an electric shot and remained admitted in the PGIMS Rohtak from 26.6.1999 to 26.11.1999.
- 7.4.2000 The petitioner was retired from service on the ground that he declared in capacitated for further retention in service due to disability suffered during service.
- 29.8.2000 The earlier order dated 7.4.2000 has been withdrawn and fresh order was passed for retiring the petitioner from service on the ground that petitioner has been declared in

5 of 48

capacitated for further retention in service due to disability suffered during service.

- 17.9.98 The policy of the Govt./Corporation was that if an employee has suffered disability during service then his dependent will be considered for compassionate appointment.
- Oct.2000 The claim for compassionate appointment was sent to the respondents.
- 22.12.03 The claim for compassionate appointment has been rejected on the ground that under the new policy of 2003, the dependents of disabled are not entitled for compassionate appointment.
- Dec.2003 The petitioner requested that his retirement order be withdrawn and he may be taken in service.
- 16.1.2004 S.E. directed the XEN to take action to take the petitioner back in service.
- 5.5.2004 The petitioner also filed representation to the Chief Minister.

- 22.6.2004 Even the XEN has recommended to S.E. to consider his case for taking him back in service.
- Jan.2005 When the petitioner visited to the office of respondent No.1 the petitioner's came to know that his claim for taking him back in service, has also been rejected but nothing was given in writing.
- 5.2.2005 The present writ petition is being filed on various grounds mentioned in para No.13 and main grounds are as under:-
- THAT IN VIEW OF THE PROVISION OF SECTION 47 OF

 THE PERSONS WITH DISABILITIES (EQUAL

 OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL

 PARTICIPATION) ACT, 1995, THE PETITIONER, CAN

 NOT BE RETIRED FROM SERVICE.
- (ii) THAT CONTROVERSY INVOLVED IN THE PRESENT WRIT

 PETITION IS SQUARELY COVERED BY THE JUDGMENT

 OF THE HON'BLE SUPREME COURT REPORTED IN JI

 2003 (2) S.C. 132 TITLED AS KUNAL SINGH VS.

 UNION OF INDIA.

(iii) THAT SIMILAR CONTROVERSY HAS BEEN SETTLED BY

THIS HON'BLE COURT IN BANI SINGH'S CASE AS

WELL AS SHASHI KIRAN VERMA'S CASE.

(iv) THAT NEITHER THE PETITIONER WAS TAKEN BACK IN

SERVICE NOR THE CLAIM OF HIS SON WAS

CONSIDERED FOR COMPASSIONATE APPOINTMENT.

PLACE: CHANDIGARH

DATED:5.2.2005

(R.KMALZK) ADVOCATE & Manvender Rathee Adw

COUNSEL FOR THE PETITIONER

8 of 48

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 2984 /2005

Satbir Singh, Ex-ALM, S/o Sh.Daya Ram, retired from the office of Executive Engineer (Operation), City Division, Uttar Haryana Bijli Vitran Nigam Ltd., Rohtak (Haryana), presently resident of Vill. & P.O. Chiri, Teh. & Distt. Rohtak (Haryana).

.. Petitioner

Versus

Uttari Haryana Bijli Vitran Nigam Ltd.,
 Panchkula through its Managing Director.

Executive Engineer (Operation), City Division,
Uttari Haryana Bijli Vitran Nigam Ltd., Rohtak
(Haryana).

FILED TODAY

2.

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Dealing Assistant

... Respondents.

\$IVIL WRIT PETITION UNDER ARTICLE
226 OF THE CONSTITUTION OF INDIA FOR
THE ISSUANCE OF A WRIT IN THE NATURE
OF CERTIORARI TO QUASH THE ACTION OF

MA ton 8. Select the stime of three

Pb. a Hry Neth court, CHANNEARH

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THE RESPONDENTS TO RETIRE THE PETITIONER ON THE GROUND THAT PETITIONER HAS BEEN DECLARED IN CAPACITATED DURING SERVICE AND THIS WRIT PETITION BE ALLOWED IN THE SAME TERMS AS JUDGMENT REPORTED JT (2) S.C. 132.

-0-0-0-

RESPECTFULLY SHOWETH

- 1. That the petitioner is a resident of Haryana State and being the citizen of India, he is entitled to invoke the extra ordinary writ jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India.
- That date of birth of the petitioner 2. is 2.2.1955. The petitioner was regular employee of respondents. On 26.6.1999 while changing the transformer, the petitioner suffered electric shot and he remained under treatment from 26.6.1999 to 26.11.1999 in PGIMS, Rohtak. He was declared medically unfit and he was retired from service only on the ground that he been declared in capacitated for further service. The copy of the retirement order dated 7.4.2000 to this effect is attached as Annexure P/1.

- That earlier order dated 7.4.2000 has been withdrawn and fresh order has been issued on 29.8.2000 for retiring the petitioner on the ground that he has been declared in capacitated on medical ground. The copy of the order dated 29.8.2000 to this effect is attached as Annexure P/2.
- 4. That the respondents have issued instructions that those employees who have become disabled during service their dependents will be considered for appointment. The copy of the instructions dated 17.9.1998 alongwith the policy of the State of Haryana dated 18.6.1996 endorsed on 14.7.1998, to this effect is attached as Annexure P/3.
- 5. That the petitioner had requested that his son be considered for appointment. The copy of the request dated 17.4.2000 to this effect is attached as Annexure P/4.
- 6. That Managing Director has directed the subordinate staff vide letter dated 24.10.2000 that the period of the petitioner from 19.1.2000 to 22.8.2000 be regularised so that claim of the dependent of the petitioner could be considered for compassionate appointment. The copy of the letter to this effect is attached as Annexure P/5.

- 7. That the said period from 19.1.2000 to 22.8.2000 has been regularised by sanctioning the special disability leave of 261 days. The letter to this effect dated 3.11.2000 forwarded by the XEN to the Managing Director, is attached as Annexure P/6.
- the posts were available and although 8. according to the policy dated 17.9.1998, the son of the considered for entitled t.o be petitioner was appointment but the claim not. compassionate considered due to the lapse of the respondents and in Feb.2003, new rules have been framed under which deprived from disabled dependents have been compassionate appointment and relying upon the new rules of 2003, the claim for compassionate appointment been rejected vide letter dated 22.12.2003, which is attached as Annexure P/7.
- 9. That the petitioner had represented that he may be retained in the service himself and further requested that his retirement order be cancelled and he may be taken back in service. The copy of the representation to this effect is attached as <u>Annexure</u> P/8.
- 10. That the petitioner again requested vide letter dated 8.1.2004 that his retirement order be

cancelled and he may be taken back in service. The copy of the request/representation to this effect is attached as $\underline{\text{Annexure P/9}}$.

- 11. That representation filed by the petitioner was duly forwarded to XEN City Operation Division, Rohtak vide letter dated 16.1.2004, copy of which is attached as Annexure P/10. The petitioner also filed representation dated 5.5.2004 to the Hon'ble Chief Minister, copy of which is attached as Annexure P/11.
- 12. That representation of the petitioner was duly forwarded by the XEN to SE. The copy of the letter to this effect dated 22.6.2004 is attached as Annexure P/12. But still the petitioner was not taken back in service and from the office of the respondent No.1, the petitioner's came to know that claim of the petitioner has been rejected for taking him back in service. But nothing was given in writing.
- 13. That impugned action of the respondents to retire the petitioner from service on declaring the petitioner medically unfit, is illegal, unjust, unfair, unconstitutional, arbitrary and liable to be set aside on the following reasons:-
- (i) THAT IN VIEW OF THE PROVISION OF SECTION 47 OF
 THE PERSONS WITH DISABILITIES (EQUAL

OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995, THE PETITIONER, CAN NOT BE RETIRED FROM SERVICE.

In view of the provisions of section 47 of the Act called "Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995", has been enforced w.e.f. 7.2.1996. The relevant provisions of section 47 (1) is reproduced below for ready reference:-

"Non-discrimination in government employments(1) No establishment shall dispense with or reduce in rank, an employee who acquires a disability during his service.

provided that, if an employee, after acquiring disability is not suitable for he post he was holding, could be shifted to some other post with the same pay scale and service benefits.

provided further that, if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until and suitable post is available or he attains the age of superannuation, whichever is earlier."

So in view of the above provisions, the impugned retirement orders are on the face of it illegal.

THAT CONTROVERSY INVOLVED IN THE PRESENT WRIT

PETITION IS SQUARELY COVERED BY THE JUDGMENT

OF THE HON'BLE SUPREME COURT REPORTED IN JT

2003 (2) S.C. 132 TITLED AS KUNAL SINGH VS.

UNION OF INDIA.

Exactly this very controversy has been considered by the Hon'ble Supreme Court reported in JT 2003 (2) SC 132 titled as Kunal Singh Vs. Union of India. The relevant para 12 & 13 are reproduced below for ready reference:-

"12. Merely because under rule 38 of CCS Pension Rules, 1972, the appellant got invalidity pension is no ground to deny the protection, mandatorily made available to the appellant under section 47 of the Act. Once it is held that the appellant has acquired disability during his service and if found not suitable for the post he was holding, he could be shifted to some other post with same pay scale and service benefits; if it was not

possible to adjust him against any post, he could be kept on a supernumerary post until a suitable post was available or he attains the age of superannuation, whichever is earlier. It appears no such efforts were made by the respondents. They have proceeded to hold that he was permanently incapacitated to continue in service without considering the effect of other provisions of section 47 of the Act.

13. For the reasons stated and discussions made above the appeal deserves to be accepted. Hence the impugned order affirming the order of termination of services of the appellant is set aside and the appeal is allowed. We direct the respondents to give relief in terms of section 47 of the Act."

So the present writ petition is entitled to be allowed in the same terms.

(iii) THAT SIMILAR CONTROVERSY HAS BEEN SETTLED BY

THIS HON'BLE COURT IN BANI SINGH'S CASE AS

WELL AS SHASHI KIRAN VERMA'S CASE.

Relying upon the judgment of the Hon'ble Supreme Court in Kunal Vs. Union of India, this Hon'ble Court in case of Bani Singh, the retirement order on medical ground

during service, has been set aside. Similarly, in CWP No.747 of 2001 titled as Shashi Kiran Verma Vs. Haryana Power Generation Corporation Ltd., has set aside the retirement order on the ground of disability suffered during service. So in view of the above judgment of this Hon'ble Court, the present writ petition is being entitled to be allowed.

(iv) THAT NEITHER THE PETITIONER WAS TAKEN BACK IN SERVICE NOR THE CLAIM OF HIS SON WAS CONSIDERED FOR COMPASSIONATE APPOINTMENT.

Although according to the policy decision P/3, the dependent of those who suffered disability during employees for considered be to service, has compassionate appointment. The case of the son of the petitioner was sent for compassionate appointment way back in Oct.2000. The posts were available but due to the lapse of respondents, the claim was not considered and ultimately in Feb.2003, new rules have been framed and under the new rules, the right of consideration for compassionate appointment of those who become disabled during service, has taken away. Since the for case compassionate appointment was pending with the respondents since 2000 and at that time, the son of the petitioner was duly eligible in all respect and posts were available but due to the lapse on the part of the respondents, the case was not finalised.

- 14. That the main law points involved in the present writ petition are as under:
 - a) Whether action of the respondents is violative of Article 14 and 16 of the Constitution of India?
 - b) Whether grave and manifest injustice has been done with the petitioner?
 - c) Whether action of the respondents is contrary to section 47 of the "Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995"?
 - d) Whether action of the respondents to reject the claim for compassionate appointment, is on the face of it illegal and arbitrary?
- 15. That the petitioner has not filed such or similar writ petition in this Hon'ble High Court or in the Hon'ble Supreme Court of India.

16. That there is no other equally efficacious, speedy, alternative or statutory remedy of appeal or revision available to the petitioner except to approach this Hon'ble Court by way of the present writ petition under Article 226 of the Constitution of India.

It is, therefore, respectfully prayed that:-

- i) records of the case may be called for ;
- ii) filing of the certified copies of the Annexures may kindly be dispensed with;
- iii) services of advance notices upon the
 respondents be dispensed with;
- iv) a writ in the nature of certiorari be issued to quash the action of the respondents to retire the petitioner from service on the ground that petitioner has become disabled during service and further direction be issued to take the petitioner back in service as per the provision of section 47 of the "Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995" and petitioner be granted all consequential benefits;
- v) this writ petition may kindly be allowed in the same terms as reported in JT 2003 (2) S.C. 132 titled as Kunal Vs. Union of India;
- vi) or in alternative, the order dated 22.12.2003

be quashed by which the claim for compassionate appointment of dependent of the petitioner, has been rejected and further direction be issued that the claim for compassionate appointment will be considered as per the policy applicable when applied for compassionate appointment;

vii) this Hon'ble Court may also pass any order which this Hon'ble Court deems fit in the facts and circumstances of the case;

viii)cost of the petition be awarded to the petitioner;

Chandigarh

Dated: 5.2.2005

PETITIONER

THROUGH COUNEEL

(R.K.MALIK) ADVOCATE.

PEITIONE

<u>Verification</u>

Verified that the contents of the present writ petition from para No.1 to 13 and 15 to 16 are true and correct to my knowledge and that of para No.14 are based on legal advice believed to be true. No part of it is false and nothing has been kept concealed therefrom.

Chandigarh

Dated:5.2.2005

PETITIONER

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. NO. 2384 12005

Satbir Singh

..Petitioner

Versus

Uttari Haryana Bijli Vitran Nigam Ltd. and another.

..Respondents

Affidavit of Satbir Singh, Ex-ALM, S/o Sh.Daya Ram, resident of Vill. & P.O. Chiri, Teh. & Distt. Rohtak (Haryana).

I the above named deponent do hereby solemnly affirm and declare as under:-

1. That the contents of para No.1 to 13 and 15 to 16 are true and correct to my knowledge and that of para No.14 are based on legal advice believed to be true. No part of it is false and nothing has been kept concealed therefrom.

PLACE: CHANDIGARH

DEPONENT

DATED:5.2.2005

VERIFICATION: -

Verified that contents of the above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

PLACE: CHANDIGARH

DATED: 5.2.2005

Tomo Translation DEPONEN

ANNEXURE P/1

U.H.B.V.N.

Office Order No.410

Dated:7.4.2000

Shri Satbir Singh, ALM S/o Shri Daya Ram, working under SDO (OP) S/D No.3, UHBVN, Rohtak is hereby allowed to retire from the Nigam service with effect from 19.1.2000 A.N. on medical grounds as the official has been declared in capacitated for further service in the Nigam as per medical certificate issued by the Special Medical Board, PGIMS, Rohtak on dated 19.1.2000.

Sd/-Xen City (OP) Divn., UHBVN, Rohtak.

Endst.No.Ch-78PF1236

Dated: 7.4.2000

Copy forwarded to the following:-

- The SE/Admn.II, UHBVN, Panchkula.
 - The CE (OP) UHBVN, Rohtak.
- 3. The SE (OP) Circle, UHBVN, Rohtak.
- 4. The SDO (OP) S/D No.3, UHBVN, Rohtak.

22 of 48

5. Shri Satbir Singh son of Shri Daya Ram, ALM C/o SDO (OP) S/D No.3, UHBVN, Rohtak for information, please.

Sd/-Xen City (OP) Divn., UHBVN Rohtak.

TRUE COPY

ADVOCATE

23 of 48

ANNEXURE P/2

Office order No.985

Dated:29.8.2000

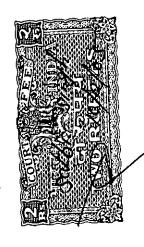
In supersession to this office order No.410 dated 7.4.2K Sh.Satbir Singh ALM S/o Sh.Daya Ram (D.O.B. 2.2.55) working under SDO (OP) S/Divn. No.3, UHBVN, Rohtak is hereby allowed to retire from the Nigam service with effect from 22.8.2000 AN on medical grounds as the official has been declared in capacitated for further service in the Nigam as per Medical certificate issued by the Special Medical Board, PGIMS, Rohtak on 22.8.2K as the certificate of Special Medical Board of PGIMS Rohtak was issued on 22.8.2K.

Sd/-Executive Engineer/OP
City, Divn., UHBVN, Rohtak.

Endst.No.Ch-209PF1236 Dated:29.8.2000

Copy forwarded to the following:-

- The SE/Admn.II, UHBVN, Panchkula.
- The CE (OP) UHBVN, Rohtak.
- The SE (OP) Circle, UHBVN, Rohtak.



- 4. The SDO (OP) S/D No.3, UHBVN, Rohtak.
- 5. Shri Satbir Singh son of Shri Daya Ram, ALM
 C/o SDO (OP) S/D No.3, UHBVN, Rohtak
 for information, please.

Sd/-Xen City (OP) Divn., UHBVN Rohtak.

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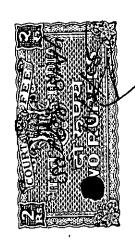
ANNEXURE P/3

From

The Addl. Secretary, H.V.P.N.L., Panchkula.

To

- 1. All Engineers-in-Chief/CEs H.V.P.N.L./ H.P.G.C.L.
- 2. The C.A.O./C.A., H.V.P.N.L., Panchkula/ Hisar.
- 3. All P.A. & CAO, in H.V.P.N.L./H.P.G.C.L.
- 4. All SEs Incharge of Circle, H.V.P.N.L.
- 5. All Xens Incharge of Division in H.V.P.N.L.
- 6. Legal Remembrancer, H.V.P.N.L., Panchkula.
- 7. C.O.S., H.V.P.N.L., Hisar.
- 8. Director Disposal, H.V.P.N.L., Panchkula.
- 9. Director/V&S, H.V.P.N.L., Panchkula.
- 10. Director/L.C.& P.C., H.V.P.N.L., Panchkula.



Memo No.Ch-21/NGE/G-649/VOL.IV
Dated:17.9.98

Subject:- Ex-gratia grant and other facilities to the dependents of deceased and Govt. Employee who died while in service or become blind/disabled while in service.

In continuation of this office Memo No.Ch-16/NGE/G-640/Vol.IV dated 17.11.97, the State Govt. Circular No.28/6/94-45HR-I dated 14.7.98 is sent herewith for information and further necessary action.

DA/As above.

Sd/-Under Secretary/PW, for Addl. Secy., HVPNL, Panchkula.

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ANUNCATE

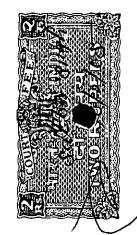
(CONTD. ANNEXURE P/3)

In partial modification of order dated 29.7.96 issued vide endorsement No.28/6/94-5HB-I dated 17.9.96 the Governor of Haryana is pleased to constitute a special Medical Board to examine Govt. employees, Autonomous Body and Board under the Haryana Government who become unfit for service in order to consider providing employment to the dependent of such an employee of his/her place. The special medical board will be set up in Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Sciences, Rohtak and will consist of the following:-

- Medical Superintendent,
 Pt. B.D.Sharma,
 P.G.I.M.S., Rohtak.
- Chairperson
- 2. Head of the concerned Member Speciality/Superspeciality
- 3. Dy. Medical Superintendent Member Secy.

 Pt. B.D.Sharma, P.G.I.

 M.S., Rohtak.



The Board will meet on 1st and 3rd Wednesdays of every month in the office of Medical Superintendent, PGIMS, Rohtak at 10:00 A.M. If the Institution is closed

on any such Wednesday the Board will meet on next working day.

Dated Chd.

Sd/-Virendra Nath

the 18.6.98

Financial Commissioner & Secy.

to Govt. Haryana, Health Deptt.

No.28/1/94-5HB-1

Dated, Chd. the 14.7.98

A copy of each is forwarded to the following for information and necessary action to:-

- All Head of the Department.
- 2. Registrar, Punjab & Haryana High Court
- Commissioner Ambala, Hisar, Gurgaon, Rohtak
- 4. All Deputy Commissioner of Haryana & Distt.Session Judge and Sub Divisional Officer (Civil) in the State.

sd/-

Under Secretary, Health,

for Financial Commissioner & Secy. to Govt., Haryana, Health Department.

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ANNEXURE P/4

Τo

Uttar Haryana Bijli Vitran Nigam Ltd., S.D.O. No.3, Rohtak.

Sub:- Representation for appointment.

Sir,

I beg to submit that my father Sh.Satbir Singh S/o Sh.Daya Ram, who were working in the office of S.D.O. No.3, as ALM, who had suffered accident on 26.6.1999 during service and my father has been removed from service, I may be appointed at his place, who have been terminated on 19.1.2000, I may be kept in service at his place. I am interested in job, my date of birth is 8.4.1982 and I am matric pass.

Therefore, I request that I may be given job at the place of my father.

Dated:17.4.2000 (Rohtak) S/o
Recommended R/o
Sd/-S.D.O. Teh.
Operation Sub Division NO.3,
Uttari Haryana Bijli Vitran Nigam Ltd.,

Yours faithfully Sd/-Dharamjit S/o Sh.Satbir Singh R/o Vill. Chiri, Teh. & Distt.Rohtak.

TRUE TRANSLATION

Rohtak.

ANNEXURE P/5

UTTAR HARYANA BIJLI VITRAN NIGAM

From

The Managing Director, U.H.B.V.N., Panchkula.

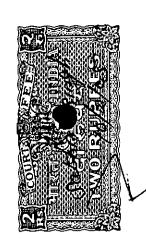
To

The Executive Engineer,
City (OP) Division,
UHBVN, Rohtak.

Memo No.Ch.5/UH/HR-II/Pen./E-198
Dated:24.10.2000

Subject:- Facility of employment to the dependent of Shri Satbir Singh, ALM (Disabled) retired on 22.8.2K on medical grounds.

Shri Satbir Singh, ALM was earlier retired vide your 0/0 No.410 dated 7.4.2000 w.e.f. 19.1.2000 but now according to revised retirement orders issued vide your 0/0 No.955 dated 29.8.2K, he has been retired w.e.f. 22.8.2K on medical grounds. Before the employment case of his dependent under ex-gratia scheme is processed further, you are requested to confirm as to how the intervening period i.e. w.e.f. 19.1.2K to



22.8.2K has been treated. In case period has been treated as Leave of kind due the copy of relevant orders may be sent to this office for reference and record.

Sd/-Supdt./HR-II,

for M.D., UHBVN, Panchkula.

CC:-

- 1. CE/OP, UHBVN, Rohtak.
- SE/OP Circle, UHBVN, Rohtka.
- 3. Shri Satbir Singh, Ex-ALM, Vill. & P.O. Chidi,
 Distt. Rohtak.

TRUE COPY

ADVOCATE

ANNEXURE P/6

UTTAR HARYANA BIJLI VITRAN NIGAM

From

The Executive Engineer,
City (OP) Division,
UHBVN, Rohtak.

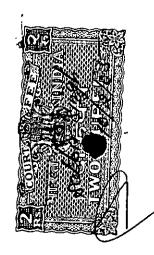
To

The Managing Director, U.H.B.V.N., Panchkula.

Memo No.Ch.220/PF-1236 Dated:3.11.2k.

Subject:- Facility of employment to the dependent of Shri Satbir Singh, ALM (Disabled) retired on 22.8.2K on medical grounds.

Ref:- Your office memo No.Ch.5/UH/HR-II/Pen/E-198 dated 24.10.2K.



In this connection, it is intimated that the period from 19.2.2K to 22.8.2K has been regularised by sanctioning the Special disability leave for 261 days, vide this office order No.1002 dated 6.9.2000 (copy

attached for your ready reference) and the payment amounting to Rs.51708/ has also been made to the concerned retiree in the month of 10/2000.

This is for your kind information and further necessary action, please.

DA/ As above.

Sd/-Xen/City 'OP' Division, UHBVNL, Rohtak.

cc:- to

- 1. C.E. 'OP', UHBVNL, Rohtak.
- 2. S.E. 'OP' Circle, Rohtak.
- 3. Sh.Satbir Singh, Ex-ALM, Vill. & P.O. Chiri,
 Teh. & Distt. Rohtak.

TRUE COPY

ADVOCATE

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27

ANNEXURE P/7

From

The M.D.,

UHBVN, Panchkula.

Τo

The C.E. 'OP',

UHBVN, Rohtak.

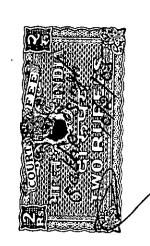
Memo No.Ch-10/UH/HR/Pen/E-198

Dated: 22.12.2003

Sub:- The Haryana compassionate assistance to the dependents of decease Govt. employees Rules, 2003- Sh.Satbir Singh Ex-ALM (Disabled) retired on medical grounds on 22.8.2K.

Refer to your memo No.9/Ex-234 dated 17.11.03 on the subject cited above.

In this connection it is stated that the employment case of Sh.Dharamjit S/o Sh.Satbir Singh Ex-ALM on compassionate grounds has been considered but could not feasible of acceptance under the subject cited rules according to which there is no provision to provide compassionate appointment to the wards of



disabled employees who retired on medical grounds.

This issues with the approval of S.E./Admn. UHBVN, Panchkula.

Sd/-Under Secretary/GA, for M.D. UHBVN, Panchkula.

CO.

- S.E. 'OP' Circle, UHBVN, Rohtak.
- Xen City Divn. UHBVN, Rohtak.
- 3. Sh.Satbir Singh, Ex-ALM V&PO Chiri Distt.

 Rohtak alongwith the original matriculation

 certificate of Sh.Dharamjit bearing No.773969.

DA/ As above for Sr.No.3 only.

ADVOCATE

29

ANNEXURE P/8

To

Hon'ble Chief Minister, Haryana, Chandigarh.

Sub:- For cancellation of the retirement order.

sir.

Satbir beg to submit that I Sh.Daya Ram, R/o Vill. Chiri, was working as ALM in the office of S.D.O. Division NO.3. During service on 26.6.1999 I met an accident in which my both hands became out of order and I was declared 100% disabled. The Lineman & Foreman were responsible for the said incident, to save them, the department has done injustice with me because guilty persons were S.C. Head Clerk was also S.C. Due to casticism I illegally retired while as per letter dated CH-10 UH/HR/Pen/E-198 dated 22.12.2003 I could be kept in service.

The Head Clerk had told me that I can not be kept in service and at my place, my son will be considered for compassionate appointment and I was

directed to submit the paper of him. On their asking I submitted all requisite papers for compassionate appointment of my son. Neither my son was given appointment, nor I was taken back in service.

I, therefore, request that my case be reconsidered and the retirement order be cancelled and I may be taken back in service.

Applicant

Sd/-Ex. ALM Satbir

S/o Sh.Daya Ram,

Vill.Chiri,

Distt. Rohtak.

TRUE TRANSLATION

ADVOCH

ANNEXURE P/9

Τo

Superintending Engineer,
Uttar Haryana Bijli Vitran Nigam,
Rohtak.

Sub:- Regarding disability during service.

Sir,

I beg to submit that I Satbir Singh, ALM, Sh.Daya Ram, was working as ALM in S.D.O. Sub Division I met an accident during service on 26.6.1999 my both hands become out of order. The proof which herewith and I was declared 100% attached which No.CH-10 In compliance of letter your disabled. UH/HR/Pen/E-198 dated 22.12.2003, my retirement order be withdrawn and I may be taken back in service and my previous pay be released.

Thanking you.

Dated:8.1.2004

Applicant
Sd/-Ex. ALM Satbir
S/o Sh.Daya Ram,
Vill.Chiri,
Distt. Rohtak.

RUE TRANSLA

ANNEXURE P/10

U.H.B.V.N. LTD.

Memo No.Ch-182/PF/13

Dated:16.1.04

From

The S.E. 'OP' Circle, Rohtak.

To

The Xen City 'OP' Divn. Rohtak.

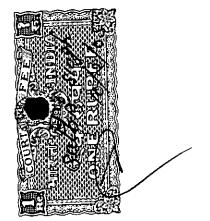
Sub:- NGE Sh.Satbir Singh ALM (Retired).

The representation made by the above named retiree that he may be allowed to continue in the Nigam service in view of your office order No.985 dated 29.8.2000 is sent herewith. You are requested that grievances of the official may be attended at once as per Nigam instructions being competent authority.

DA/ As above.

\$d/-

S.E. 'OP' Circle, Rohtak.



X

33

ANNEXURE P/11

То

Sh.Om Parkash Chautala Ji, Hon'ble Chief Minister, Haryana, Chandigarh.

Sub:- Application for taking back in service.

Sir.

Singh, beg to submit that I Satbir Sh.Daya Ram, is resident of VPO Chiri, Distt. Rohtak. I as ALM in Sub Division No.3 of Haryana posted Haryana Vidyut Parsaran Nigam, Centre Chandi and I become disabled due to an accident dated 26.6.1999. Due to the fault of Lineman & Foreman, I suffered disability during service. Due to the accident, department had told me that either you will be retired or terminated. While the CMO, Civil Surgeon, Rohtak, has the certificate of 80% handicapped, thereafter, said you will be kept in service and I was retired from service, while there is no provision to retire me service. On 22.8.2002 I came to know that I can not be retired without medically examine by PGIMS, Rohtak, I was again called and I was told that at my place, my son

will be employment. I deposited all relevant documents for appointment of my son Dharamjit. I was again medically examined by PGIMS, Rohtak. The Haryana Vidyut Prasaran Corporation has spoiled my career. For the last three years, the affidavit was also sought from my son to serve his parents but my son was not given employment. During the said period, two three persons have been given appointment.

I, therefore, pray with folding hands, the justice be given to me and my son be considered for compassionate appointment.

Dated: -5.5.2004

Yours faithfully

Sd/-Satbir Singh

S/o Sh.Daya Ram,

V.P.O. Chiri,

Teh. & Distt. Rohtak.

TRUE TRANSLATION



ANNEXURE P/12

U.H.B.V.N.

Memo No.Ch.244/PF-1236

Dated:22.6.04

From

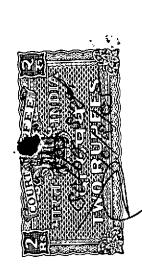
The Xen City (OP) Divn., Rohtak.

TA

The SE (OP) Circle, UHBVN, Rohtak.

Subject: - Employment under ex-gratia-request of Shri Satbir Singh S/o Sh.Daya Ram.

Kindly refer to your office Memo No.Ch.202/Pen.3 dated 11.6.04.



In this connection, it is intimated that Sh.Satbir Singh, ALM son of Shri Daya Ram, met with N.F.A. dated 26.6.99 while changing the transformer under SDO (OP) S/D No.3, Rohtak as reported by SDO (OP) S/D No.3, Rohtak vide memo No.1074/AC-NE dated 10.4.2000. The retiree remained in the PGIMS, Rohtak, w.e.f. 26.6.99 to 26.11.99 for his treatment and after

that he was taken on duty by the SDO (OP) S/D No.3, Rohtak provisionally. After that the retiree was got examined from the CMO, Rohtak, who declared the retiree 80% disable. Accordingly the Sh.Satbir Singh, ALM has been retired on medical grounds vide this office order No.410/7.4.2000 and later the medical disability certificate was got issued by the Special Medical Board of PGIMS, Rohtak w.e.f. 22.8.02 A.N. The special medical PGIMS, Rohtak has declared the retiree board incapacitated for further service in the Nigam service w.e.f. 22.8.2000. According the official was retired vide this office order No.985 dated 29.8.2000 and all the retiral benefits and other pensionary benefits have been paid to the retiree. The case for the appointment of his son under the ex-gratia scheme has been sent to the S.E. Admn., UHBVN, Panchkula and the same was M.D., Panchkula Memo by UHBVN, rejected No.Ch.10/UH/HR/Pen./E-198 dated 22.12.03.

The retiree has now again requested to the Hon'ble C.M. Haryana in his application dated 5.5.04 for appointing his son under ex-gratia policy of the Nigam. M.D., UHBVN, Panchkula has already rejected the application of his son for appointment under ex-gratia policy of the Nigam. You are therefore requested to took into the matter and the application may be sent to the SE/Admn., Panchkula for reconsideration, please.

YX

37

DA/As above.

Sd/-Xen City (OP) Divn., Rohtak

c.c:-

Sh.Satbir Singh S/o Sh.Daya Ram, V. & P.O. Chiri, Teh. & Distt. Rohtak for information, please.

TRUE COPY

ADVOCATE

In the High Court for the States of Punjab and Haryana at Chandigarh

CWP No. 2384 of 2005

Satbir Singh

.... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and Anr.

.... Respondents

Written Statement on behalf of respondents no. 1 and 2.

Respectfully Showeth: -

- 1. That para no. 1 of the petition is correct to the extent that the petitioner is the citizen of India. However he is not entitled to invoke the extra-ordinary writ jurisdiction of this Hon'ble Court.
- 2. That para no. 2 of the petition is a matter of record.
- That reply of the para no. 3 of the petition it is submitted that the petitioner was retired from service vide order no. 419 dated 7.4.2000 and O/O No. 985 dated 29.8.2000 on the basis of special medical report received from the Medical Board, PGIMS Rohtak dated 22.8.2000.
- 4. That para no. 4 of the petition is a matter of record.
- 5. That in reply to para no. 5 it is submitted that the request so received was forwarded to the competent authority but the same was rejected.
- 6. That para no. 6 of the petition is a matter of record.
- 7. That para no. 7 of the petition is admitted to the extent that the period from 19.1.2000 to 22.8.2000 has been

regularized by sanctioning disability leave for 261 days and a sum of Rs. 51,760/- has been paid.

8. That in reply to para no. 8 of the petition it is submitted that the case of the son of the petitioner was considered for compassionate appointment. But the same was rejected vide MD, UHBVN, Panchkula, Memo no. CH-10/UH/ HR/ PEN/ E- 198 dated 22.12.2003 under Haryana compassionate assistance to the Dependent Deceased Government Employee Rule 2003.

3 & 10 That para no. 9 and 10 of the petition are matter of record.

That in reply to paras no. 11and 12 of the petition it is stated that the representation of the petitioner was received from the authorities but due to the grant of old retrial benefits to Ex. ALM, the case was sent to SEP Circle Rohtak vide Memo no. CH 244 PP 1236 dated 22.6.2004 to take up the matter with the hire authorities in the prevailing circumstances on the plea of the petitioner.

That the para no. 13 of the petition is incorrect and hence denied. The petitioner was medically unfit and so retired from Nigam service. But the whole retirement benefits have been paid to him on his request by relevant documents of pension, Ex. cretia GPF/ GIS and leave encashment

13 (i)-(iv) That para no. 13 (i) to (iv) of the petition are legal and the case of the petitioner has been considered in view of the provisions of the law. The action of the answering respondent 47 is neither illegal, nor unjust, unfair,

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unconstitutional or arbitrary and is not liable to be set aside.

14 That para no. 14 of the petition is legal. However the case of the petitioner has been dealth in accordance with law and there is no violation of article 14 or 16. The petitioner has been given full due benefits and therefore no injustice has been done with him.

That para no. 15 of the petition are matter of record.

That para no. 16 of the petition is incorrect and hence denied. The petitioner is not entitled to invoke the extraordinary jurisdiction of this Hon'ble Court by filing the present writ petition. The petition is not maintainable and thus liable to be dismissed.

It is therefore, respectfully prayed that the petition of the petitioner may kindly be dismissed with costs.

Place:

Chandigarh

Dated

19-9-05

Through

.... Respondent

XEN City (OP) Divn UHBVNL, Rohtak

Verification:

Verified that the contents of the abiove written statement from para no. 1 to 13 are true and correct to my knowledge and belief as per record and that of para no. 14 to 16 as per the legal advise of the counsel and believed to be true. No part of it is false and nothing has been concealed therein.

Place:

Chandigarh

Dated

19-9-05

.... Respondent XEN City (OP) Divn

UHBVNL, Rohtak

Note:

Copy of the reply has been given to Sh. R.K. Malik,

Counsel for the petitioner.

Power of Atterney already on file.