

(2014) 07 P&H CK 0803

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP 74/2014

Urmila

APPELLANT

Vs

Uttar Haryana Bijli Vitran Nigam
Ltd.RESPONDENT

Date of Decision: July 21, 2014**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 2 Rule 2
- Constitution of India, 1950 - Article 226

Hon'ble Judges: Jaswant Singh, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

Jaswant Singh, J.

Widow of deceased Chowkidar working on work charge basis with the erstwhile Haryana State Electricity Board (for short HSEB) and successor Uttar Haryana Bijli Vitran Nigam Limited by way of present writ petition is seeking financial assistance in lieu of compassionate appointment under the "Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules-2003 or 2006 as adopted by the respondent Utility Company.

2. None has appeared on behalf of the petitioner.

3. Late husband of the petitioner Sh. Sumer Chand was engaged as Chowkidar on work charge basis w.e.f. 1.11.1972 in the erstwhile HSEB. As per regularisation policy adopted by the HSEB, he was offered appointment on regular basis firstly in the year 1987 and subsequently in the year 1993. However, on both the occasions he declined to accept claiming that the benefits available in regular service were not equivalent to what he was getting as work charged employee. He subsequently died on 14.1.1997. His widow, the petitioner prayed for seeking compassionate appointment for her son, which was not accepted resulting into son of the

petitioner-Umesh Kumar filing CWP No. 2213 of 1998, which was "Admitted" for regular hearing. Said writ petition was withdrawn vide order dated 7.1.2011 by way of an application to enable the legal representatives of the deceased employee to claim the benefits admissible to them. It appears that the terminal benefits were denied resulting into the present petitioner on earlier occasion filing CWP No. 3845/2011, which was allowed by this Court vide order dated 7.1.2013 directing the respondents to grant terminal benefits to the petitioner by holding that the deceased work charged employee be treated as on regular basis. It is thereafter, the petitioner is now seeking financial assistance in lieu of claim for compassionate appointment.

4. After perusing the pleadings in view of the aforesaid facts, it is apparent that deceased Sumer Chand throughout remained as a work charge employee and therefore the claim of the son of the petitioner for compassionate appointment was declined inter alia on the ground that the dependent of the deceased was over age having attained the age above 40 years. Challenge to the said writ petition was made and the same was withdrawn with permission to seek terminal benefits. Thus it is apparent that the petitioner had accepted the disentitlement for compassionate appointment of the son of the deceased employee. Still further in the subsequent writ petition filed and decided on 7.1.2013, no claim for compassionate appointment or any compensation in lieu of the same was made. Hence the petitioner is estopped besides being non-suited on the principle of Order 2 Rule 2 CPC, to claim compensation in lieu of compassionate appointment at this highly belated stage. Thus, this Court finds no ground warranting interference in exercise of discretionary jurisdiction under Article 226 of the Constitution.

5. Dismissed.