2025:PHHC:150322

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22548-2017 (O&M)
Reserved on: 28.10.2025
Pronounced on:31.10.2025

Pankaj Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surender Pal, Advocate,
for the petitioner.

Mr. Piyush Kumar, Addl. A.G., Haryana.

Mr. Keshav Gupta, Advocate,
for respondents No.2 to 6.

HARPREET SINGH BRAR J.

1. The present petition is preferred under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing orders dated 05.03.2004 (Annexure P-13) and 08.10.2015 (Annexure P-16) passed by respondent No.3 vide which the claim of the mother of the petitioner for grant of compassionate appointment to the petitioner in lieu of disability and retirement of her husband was rejected.

FACTUAL BACKGROUND

2. The father of the petitioner- Balraj Singh joined the service of respondent-UHBVNL on 06.04.1977 as an Assistant Lineman in Kaithal. On 02.06.1999, the father of the petitioner was repairing a light point on a 25 feet long pole after switching off the main line. However,

someone from the department switched on the main line which resulted in him falling on the ground due to the electric shock. He was examined by the Board of Doctors, PGI, Rohtak, which came to the conclusion that the father of the petitioner is 100% disabled. A disability certificate dated 06.09.2000 (Annexure P-1) was also issued in this regard. Thereafter, the father of the petitioner was also issued a Disability Certificate dated 11.10.2000 (Annexure P-2) from the office of Civil Surgeon, Sonepat.

3. Vide letter dated 20.03.2001 (Annexure P-3), the father of the petitioner was given two options, either to continue in service with respondent-UHBVNL till the age of superannuation or to seek retirement on medical grounds with the assurance that the case of his son i.e. the petitioner would be considered for appointment in his place. The father of the petitioner chose the latter and vide letter dated 31.07.2001 (Annexure P-4), he was intimated that he shall be retired on medical grounds and the petitioner would be granted employment under ex-gratia scheme. Accordingly, he was retired from service w.e.f. 06.09.2000 vide order dated 06.08.2001 (Annexure P-5). The case of the petitioner for grant of employment under ex-gratia scheme prevalent at the time i.e. policies dated 23.11.1992 and 31.08.1995, was forwarded to respondent No.6-XEN to respondent No.5-Superintending Engineer (OP). However, the policy dated 23.11.1992 that allowed for recruitment of a dependent of an employee who was disabled during his

service period, was withdrawn by respondent No.1 vide letter dated 20.03.2006 (Annexure P-7 colly).

4. Ultimately, the case of the petitioner was rejected vide letter dated 05.03.2004 (Annexure P-13) as he was found ineligible in terms of the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2003, which contains no provision for providing employment to the dependents of an employee who retired on medical grounds due to a disability. Thereafter, the mother of the petitioner also sent a clarificatory letter dated 17.07.2004 to the respondent-UHBVNL and a representation dated 14.05.2015 (Annexure P-15/T) to the Chief Minister, Haryana. The representation was forwarded to the department concerned and was rejected by respondent No.3-Managing Director, UHBVNL on the ground that there is no provision to provide employment in the present case.

CONTENTIONS

5. Learned counsel for the petitioner contended that at the time of the accident suffered by the father of the petitioner as well as on the date of his retirement i.e. 06.09.2000, policy dated 31.08.1995 (Annexure P-8) was also applicable. Clause 5 of the said policy provides for ex-gratia appointment to the dependents of disabled employees who were declared medically unfit/blind/incapacitated by the Special Medical Board and retired on or before attaining the age of 55 years, whereas the father of the petitioner suffered the accident at the age of 45 years resulting in permanent disability and subsequent

retirement. Moreover, the father of the petitioner suffered a 100% disability in the line of duty and only agreed to retirement on the promise of grant of employment to his son, offered by the respondent-UHBVNL of its own accord. The respondents are bound by the principle of promissory estoppel, but neither did they grant employment to the petitioner, nor was the father of the petitioner allowed to continue serving till the age of his superannuation. Further still, the case of the petitioner ought to be appreciated in view of the applicable policy at the relevant time. The withdrawal of the policy dated 23.11.1992 would not affect the case of the petitioner as the same was done vide letter dated 20.03.2006, while the father of the petitioner had already submitted his consent for retirement in lieu of employment to his son in the year 2001. The subsequent change in policy cannot be used as a shield by the respondent-UHBVNL to deny the benefit of ex-gratia appointment to the petitioner. Additionally, the policy dated 23.11.1992 (Annexure P-7) was duly adopted by the Haryana State Electricity Board during the Board meeting held on 24.03.1993 (Annexure P-7 colly).

6. *Per contra* learned counsel for respondents No.2 to 6 submits that the present petition suffers from delay and laches as the case of the petitioner was rejected in the year 2004 while this writ petition has been filed in the year 2017. The objective of the ex-gratia scheme is to enable the family of the deceased or disabled employee to tide over immediate financial crisis. The case of the petitioner could not be considered during the prevalence of the ex-gratia employment

scheme as the sequence was based on seniority. The State introduced a new ex-gratia policy dated 31.03.2003, adopted by the Nigam vide memo dated 09.06.2003 which does not contain any provisions for providing employment to the dependents of a disabled employee. The policy dated 31.03.2003 supersedes all the previous ex-gratia policies, including the policy dated 31.08.1995 (Annexure P-8) and therefore, the case of the petitioner deserves to be dismissed.

OBSERVATIONS AND ANALYSIS

7. Having heard learned counsel for the parties and perusing the record with their able assistance, it transpires that the father of the petitioner suffered a disability to the extent of 100% in a work-related accident that occurred on 02.06.1999. The father of the petitioner consented to early retirement on medical grounds and vide letter dated 31.07.2001 (Annexure P-4), it was decided to employ the petitioner under the ex-gratia scheme. However, his claim was ultimately rejected vide impugned order dated 05.03.2004 (Annexure P-13) solely on the ground that no provision currently existed under the new policy adopted on 09.06.2003 for appointment of dependents of those employees who had retired for medical reasons owing to a disability.

8. The father of the petitioner suffered an accident on 02.06.1999 and was offered a choice by the respondent-UHBVNL on 20.03.2001 (Annexure P-3) between continuing service till superannuation and retiring prematurely with an offer to consider the case of his son, the petitioner, for employment. On the date of the

accident, when the father of the petitioner suffered said disability, both policy dated 23.11.1992 (Annexure P-7) and policy dated 31.08.1995 (Annexure P-8), containing explicit provisions for appointment of such dependents, were in force. Further, a perusal of orders dated 14.08.2001 (Annexure P-6), 23.08.2001 (Annexure P-10), 12.10.2001 (Annexure P-11) and 21.01.2002 (Annexure P-12) all passed by respondent-UHBVNL, indicates that the case of the petitioner was being considered in light of the ex-gratia scheme that existed at the time of the accident/retirement. However, the final order dated 05.03.2004 (Annexure P-13) has been passed in terms of policy dated 31.03.2003 that was adopted by the respondent-UHBVNL on 09.06.2003. Indubitably, per Clause 19 of the policy dated 31.03.2003, all pre-existing instructions regarding appointments under ex-gratia schemes issued by the State would stand repealed with introduction of the policy of 2003. Be that as it may, the same would have no implication on the case of the petitioner as it was not in vogue at the time of the disability causing accident/retirement, especially since the policy of 2003 does not contain any provision that deals with its retrospective application.

9. A two-Judge bench of the Hon'ble Supreme Court in ***State of Madhya Pradesh and others vs. Ashish Awasthi (2022) 2 SCC 157*** categorically held that as far as compassionate appointment is concerned, the policy applicable at the time of death of the deceased employee would prevail. Speaking through Justice M.R. Shah, the following was held:

> *"4. The deceased employee died on 08.10.2015. At the time of death, he was working as a work charge employee, who was paid the salary from the contingency fund. As per the policy/circular prevalent at the time of the death of the deceased employee, i.e., policy/circular No.C-3-12/2013/1-3 dated 29.09.2014 in case of death of the employee working on work charge, his dependents/heirs were not entitled to the appointment on compassionate ground and were entitled to Rs. 2 lakhs as compensatory amount. Subsequently, the policy came to be amended vide circular dated 31.08.2016, under which even in the case of death of the work charge employee, his heirs/dependents will be entitled to the appointment on compassionate ground. Relying upon the subsequent circular/policy dated 31.08.2016, the Division Bench of the High Court has directed the appellants to consider the case of the respondent for appointment on compassionate ground. As per the settled preposition of law laid down by this Court for appointment on compassionate ground, the policy prevalent at the time of death of the deceased employee only is required to be considered and not the subsequent policy.*
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> *4.1 In the case of* ***Indian Bank and Ors. v. Promila and Anr., (2020) 2 SCC 729****, it is observed and held that claim for compassionate appointment must be decided only on the basis of relevant scheme prevalent on date of demise of the employee and subsequent scheme cannot be looked into. Similar view has been taken by this Court in the case of* ***State of Madhya Pradesh and Ors. v. Amit Shrivas, (2020) 10 SCC 496****. It is required to be noted that in the case of* ***Amit Shrivas (supra)*** *the very scheme applicable in the present case was under consideration and it was held that the scheme prevalent on the date of death of the deceased employee is only to be considered. In that view of the matter, the impugned judgment and order passed by the Division Bench is unsustainable and deserves to be quashed and set aside."*

9.1. Further, a Division Bench of the Bombay High Court ***Pramod vs. State of Maharashtra 2010(30) SCT 790*** where the compassionate appointment scheme was also limited to cases where the employee passed away and withdrawn with respect to employees who sustained disabilities. It was held that subsequent policies cannot be

given a retrospective effect and the employer is duty bound honour the promissory estoppel. Speaking through Justice Shrihari P. Davaare, the following was held:

> *"19. On perusal of the record and after considering the rival submissions, it is seen that the order terminating services of the father of the petitioner on the ground of permanent disability acquired by him, was issued on 26-6-2006, although it was given effect from 9-6-2006 i.e. the date on which the medical certificate was issued, declaring him permanently disable to continue in service. However, respondent No. 3, by letter dated 11-9-2006, communicated to the father of the petitioner that the case of the petitioner could not be considered for appointment on compassionate ground, in view of letter dated 28-7-2006 and circular dated 24-8-2006, since the said scheme was restricted only in cases of deaths of the employees during employment, and was withdrawn in cases of disabilities acquired on medical grounds.*
>
> *20. Hence, it is clear from the record that it is only for the first time that the policy was made public vide said letter dated 28-7-2006 and circular dated 24-8-2006.* ***It is settled principle of law that services of the employees would be governed by the service conditions as existed on the date of their appointment/termination****. In the present case, on the date of order of termination of services of father of the petitioner i.e. 26-6-2006 which is given effect from 9-6-2006, the change in policy of respondent-Corporation was not made known to public.* ***Besides that, giving retrospective effect to the letter dated 28-7-2006 and circular dated 24-8-2006 by respondent Nos. 2 and 3 from 9-6-2006 is apparently arbitrary, more so when it was not made public earlier, as aforesaid****.*
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> *21. Moreover, it is significant to note that by way of termination order dated 26-6-2006, the father of the petitioner was given option either to prefer appeal against the said order within the period of thirty days, or to submit an application for appointment to any of his dependents on compassionate ground within the period of fifteen days.* ***Admittedly, in the present case, father of the petitioner did not challenge the said order of termination, but acted on the representation made by the respondents in the said termination order and, accordingly, petitioner applied for appointment on compassionate ground as dependent/legal heir of his father and, therefore, the***

> ***proposition of promissory estoppel would come into picture and the petitioner would be entitled to rest his claim on the said principle of promissory estoppel and respondent Nos. 2 and 3 cannot be permitted to reside from the representation made in the termination order.****"*
>
> *(emphasis added)*

9.2. Finally, a Full Bench of this Court in ***Krishna Kumari vs. State of Haryana 2012 (2) SCT 736,*** speaking through Justice Rajan Gupta, answered the reference- "*whether it would be the rules in operation at the time of death of the employee or the rules applicable on the date when case is considered by the appropriate authority"*in the following manner:

> *"11. …In our considered view* ***date of death of an employee is an important factor to be taken into consideration as schemes for compassionate appointment are floated with a view to provide immediate relief to families of deceased employees to meet the financial crisis they face on death of sole bread winner. Travails of the family begin immediately thereafter. In that context, date of death assumes significance. Purpose of providing compassionate appointment is to mitigate the hardship at that time. Thus policy applicable on the date of death needs to be invoked to provide immediate relief.*** *Application seeking compassionate appointment should be moved promptly thereafter by his dependent and considered by the employer without undue delay. In case an application is considered by the authority after lapse of time, objective of scheme is defeated. Such schemes which are in the nature of social welfare measure and have been recognised as an exception to the general rule for offering public employment would necessarily be applicable strictly in the parameters laid down therein and accepted by the apex court in its various decisions. Particular reference may be made here to* ***Umesh Kumar Nagpal v. State of Haryana & Ors, 1994(3) S.C.T. 174 : (1994) 4 SCC 138****, wherein it was held that whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was*

accepted as it bore a rationale nexus to the object sought to be achieved viz. relief against destitution. The Supreme Court held :-

> *"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.*
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> *7. It is needless to emphasise that the provisions for compassionate employment have necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an ad hoc basis."*

In view of this clear enunciation of law we cannot but come to the conclusion that rules applicable on the date of death/incapacitation of an employee need to be followed. Needless to observe it is upto the authority to consider the application without inordinate delay and take a decision thereon. ***In the eventuality application remains pending for considerable period and some other policy comes into operation, no fault can be found on part of the employee.*** *This appears to be the principle recognised by the Apex court in its recent judgment in* ***Bhawani Prasad Sonkar's case****. As held therein, application for compassionate employment has to be preferred without undue delay and has to be considered within a reasonable period of time as compassionate appointment is to meet the sudden crisis on account of death or invalidation of the bread winner of the family. We, thus, come to the conclusion that in case an application is made by the dependent belatedly or is considered after inordinate delay, basic requirement of meeting the immediate crisis becomes redundant. Since the objective of the policy is to rescue the family from sudden event plunging it into penury, consideration of application after number of years would be beyond the principles accepted by the apex court in its various decisions. In such circumstances, it would be difficult to accept the exception to the general rule of employment as envisaged by Articles 14 and 16 of the Constitution of India. We answer the reference accordingly."*

(emphasis added)

9.3. In light of the pronouncements referred to above, this Court is of the considered opinion that the ground taken by respondent-UHBVNL that a new policy was introduced by the time the case of the petitioner came to be considered is thoroughly untenable. Admittedly, both the Schemes of 1992 and 1995 were applicable at the time of the accident as well as the retirement of the father of the petitioner. The petitioner had duly submitted the necessary documents for appointment under the ex-gratia scheme promptly in the year 2001. However, the decision in the said matter only arrived in the year 2004 for no fault of the petitioner.

10. It is settled law that cases pertaining to compassionate appointment must be decided with a sense of urgency as the purpose behind granting such benefits is to aid the dependents of the deceased/incapacitated employee to tide over the sudden financial crisis caused by such death/incapacitation. Had the respondent-UHBVNL been more prompt with their decision making process, the petitioner could have availed the benefit of compassionate appointment in the first attempt itself. However, the petitioner and his mother were compelled to run from pillar to post since passing of the impugned order dated 05.03.2004 (Annexure P-13). As far as the argument pertaining to delay in filing the present writ petition is concerned, it can be seen that the petitioner and his mother were continuously making efforts to seek relief, which also suggests their difficult fiscal condition. Vide letter

dated 17.07.2004 (Annexure P-14/T), the mother of the petitioner clarified to the respondent-UHBVNL that the promise of appointment of the petitioner was the reason her husband opted for premature retirement. Left hopeless by the inaction in spite of continuous efforts, the mother of the petitioner made a representation dated 14.05.2012(Annexure P-15/T) to the Chief Minister, Haryana. The same was forwarded to the respondent-Department, which was rejected by respondent No.3-Managing Director vide impugned order dated 08.10.2015 (Annexure P-16) on the same grounds as order dated 05.03.2004 (Annexure P-13). Thereafter, the present writ petition was filed on 25.09.2017.

11. While it is apparent that there is a delay of about 02 years from passing of impugned order dated 08.10.2015 (Annexure P-16) and filing of the present writ petition on 25.09.2017, this Court finds it appropriate to condone the same in view of the trauma experienced by the petitioner and his family. The father of the petitioner suffered a damaged spine and four fractured discs due to the strong electric shock received by him while on duty. In addition to this, his lower limbs were also paralysed. Moreover, the letter (Annexure P-9) written by him to respondent No.3-Managing Director praying for expeditious processing of relief and appointment of his son, also highlights the lackadaisical attitude of the respondent-UHBVNL. This Court is satisfied that considering their circumstances, the petitioner and his mother have made persistent efforts to remedy their situation. Moreover, grant of the

said benefit to the petitioner would not unsettle settled matters qua any other affected party.

12. Further still, this Court is not bound by any hard and fast rules to condone delay while entertaining writ petitions under Article 226 of the Constitution of India, and possesses the power to analyse each case on its own merits. Reference in this regard can also be made to the judgment rendered by a Full Bench of the Andhra Pradesh High Court in ***P.V. Narayana vs. A.P. State Road Transport Corporation 2013(8) SCT 508***, speaking through Justice Pinaki Chandra Ghosh, issued the following guidelines in this regard:

> *"52. On the basis of the decisions of the Supreme Court referred to above, the relevant considerations that may be taken into account in determining the issue of delay and laches may be summarised thus:*
>
> > *(1) Though no period of limitation is prescribed for the Writ Courts to exercise their powers under Article 226 of the Constitution of India or to file a writ petition, a person aggrieved should approach the Court without loss of time.* ***In appropriate cases, where there is delay and the same has properly been explained with cogent reasons, Court may condone the delay as an exception to meet the ends of justice****. But, it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the court to put forward stale claims and try to unsettle settled matters.*
> >
> > *(2) Courts have evolved rules of self-imposed restraints or fetters where the High court may not enquire into belated or stale claim and deny relief to a party if he is found guilty of laches. One who is tardy, not vigilant and does not seek intervention of the Court within a reasonable time from the date of accrual of cause of action or alleged violation of the*

constitutional, legal or other right, is not entitled to relief under Article 226.

(3) ***No hard and fast rule can be laid down for universal application and every case shall have to be decided on its own facts.***

(4) ***There is no inviolable rule of law that whenever there is a delay, the Court must necessarily refuse to entertain the petition****; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts.*

(5) There is no lower limit or upper limit and it will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose.

(6) The principle on which the Court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because Court should not harm innocent parties if their rights had emerged by the delay on the part of the petitioners.

(7) Where there is remiss or negligence on the part of a party approaching the Court for relief after an inordinate and unexplained delay, in such cases, it would not be proper to enforce the fundamental right. As a general rule if there has been unreasonable delay the Court ought not ordinarily to lend its aid to a party in exercise of the extraordinary power of mandamus.

(8) There is no waiver of fundamental right. But, while exercising discretionary jurisdiction Court can take into account delay and laches on the part of the applicant in approaching a Writ Court.

(9) Though the High Court in exercise of the power under Article 226 in its discretion grant relief in cases where the fundamental rights are violated, but, in such cases also, High Court, to meet the ends of justice, shall refuse to exercise its high prerogative jurisdiction in favour of a party who has been guilty of laches and where there are other relevant circumstances which indicate that it would be inappropriate to exercise the discretionary jurisdiction.

> *(10) The maximum period fixed by the Legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured.*
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> *(11) If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Courts have applied the rule of delay with greater rigor in service matters.*
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> *(12) The benefit of a judgment cannot be extended to a case automatically. The Court is entitled to take into consideration the fact as to whether the petitioner had chosen to sit over the matter and wake up after the decision of the Court. If it is found that the petitioner approached the Court with unreasonable delay, the same may disentitle him to obtain a discretionary relief. Long Delay disentitles a party to the discretionary relief under Articles 32 and 226 and persons who had slept over their rights for long and elected to wake up when they had the impetus from the judgment of similarly placed persons.*
>
> *(13) Where during the intervening period rights of third parties have crystallized, it would be inequitable to disturb those rights at the instance of a person who has approached the Court after long lapse of time and where there is no cogent explanation for the delay.*
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> *(14) Where the appellate authority acting within its jurisdiction condoned the delay after being satisfied with the facts stated in relation thereto, the High Court in exercise of its powers under Article 226 or 227 of the Constitution should not ordinarily interfere with the order."*

CONCLUSION

13. The constitutional philosophy prioritises human dignity above all else and the State as well as its instrumentalities are expected to conduct themselves in a manner that aligns with the same. In that vein, the administrative machinery must function as the custodian of

public welfare, guided by the basic constitutional promise of dignity, fairness, and responsive governance. However, this Court is constrained to note that administrative authorities often display persistent and unwarranted apathy and insensitivity, highlighted by the lack of compassion when dealing with the employees, pensioners and the marginalised, who require time-sensitive relief. When officials mechanically dispose of representations, delay decisions, ignore judicial orders, or raise pedantic objections, they fail to recognise the urgent human needs of citizens. This indifference manifests itself as disregard for human exigencies and adopting a hyper-technical approach to deny substantive justice. Such lack of compassion calls into question the integrity of the constitutional guarantee of justice, which widens the gap between the government and the citizenry. Time and again, Courts have censured such conduct and have reiterated that the State is not permitted to act with cold indifference and formalistic detachment, considering its duty to be in the nature of charity. Unnecessary delay and arbitrary approach in deciding representations and claims, ultimately result in avoidable litigation burdening the Courts that are already struggling with considerable pendency. Everyday this Court deals with matters pertaining to issues that already stand settled and which could be decided expeditiously, in terms of the respective litigation policies framed by the States of Punjab and Haryana, had they been practically implemented. Ultimately, the ethos of administration must shift. Governance must transcend rule bound rigidity and endorse a humane,

compassionate, and accountable approach, consistent with constitutional values and public trust.

14. The case at hand is a classic example of the administrative apathy that has resulted in denial of livelihood to a deserving candidate. The petitioner was eligible for ex-gratia appointment in terms of a duly enforced government policy. However, the manner of decision of his claim has not only caused the petitioner a loss of livelihood but also considerable mental harassment due to denial of a legitimate expectation. At this stage, the petitioner is about 47 years old, far beyond the age to be eligible for government service, and much closer to the age of retirement. Therefore, this Court is of the considered opinion that he deserves to be compensated for the utter disregard to human dignity displayed by concerned department.

15. Accordingly, the present petition is partly allowed. The respondent-UHBVNL/competent authority is directed to pay a compensation of Rs.7,50,000/- to the petitioner with an interest at the rate of 6% p.a., calculable from the date of filing of this petition i.e. 25.09.2017 till its actual realization, within a period of 02 months from receipt of a certified copy of this order.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

31.10.2025
yakub

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