

2026.PHHC:015968



210.

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

RSA No.3427 of 1998

Date of decision: 03.02.2026

Mohan Lal (deceased) through his LRs Appellant

Versus

The A.E.E./T & S.W. Workshop, H.S.E.B. Colony (now U.H.B.V.N.),
Kunjpura Road, Karnal, and others

.... Respondents

2.

CWP No.1076 of 2011

Nirmala Devi (deceased) through her LRs Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited, and another Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. V.D. Sharma, Advocate, for the appellant/petitioner.

Mr. Shailender Singh Gill, Advocate, for
Mr. Sanjiv Kumar Jindal, Advocate,
for the respondents in RSA No.3427 of 1998.

Ms. Nikita Goel, Advocate,
for the respondents in CWP No.1076 of 2011.

NAMIT KUMAR, J. (ORAL)

1. *Vakalatnama* filed on behalf of respondents in CWP No.1076
of 2011 in Court today, is taken on record.

2. Both these cases are being disposed of by a common order as they have arisen from the same cause. The Regular Second Appeal has been filed by the plaintiff-appellant against the findings of the First Appellate Court, Karnal, reversing the judgment of the Trial Court and the writ petition has been filed by the wife of the plaintiff (since appellant-plaintiff died during the pendency of RSA), seeking ex-gratia benefits.

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3. The plaintiff has filed the instant Regular Second Appeal impugning the judgment and decree dated 23.07.1998, passed by the learned Additional District Judge, Karnal, whereby the judgment and decree dated 05.02.1997, passed by the learned Civil Judge (Junior Division), Karnal, has been reversed and the suit of the plaintiff has been dismissed.

3.1 Parties to the *lis* hereinafter shall be referred to as per their original position before the learned Trial Court.

4. The brief facts, as have been pleaded in the appeal, are that the plaintiff initially joined the defendants (UHBVN) on a daily-wage basis in the month of May, 1980 and lateron, he was promoted as T-mate on 15.12.1982 and in the year, 1984, he was transferred to Karnal. On 21.04.1988, while repairing an electric pole during the course of his duties, he met with an accident, as a result of which, his left leg was amputated. He remained under medical treatment in PGI, Chandigarh, upto 13.03.1989. During the period of medical treatment, the plaintiff received an

offer of appointment as ALM on regular basis at Indri, under SDO (OP), HSEB, Indri, vide order dated 16.08.1988. But due to illness, he could not join as ALM and consequently, vide order dated 27.09.1988, the offer of appointment made on 16.08.1988, was cancelled. Thereafter, upon being declared medically fit, the plaintiff resumed his duties on 16.04.1989. Subsequently, on 21.01.1992, he was appointed as T-mate on work charge basis (Ex.D1), and he joined as such on 25.03.1992. It was further pleaded that during the intervening period, several of his juniors, namely, Kasturi Lal, Bir Singh, Vasudev and Jagdish, who were similarly situated and permanently disabled, were promoted to the post of ALM/Helper Grade-1 on 16.08.1988, whereas the plaintiff being senior to them, had not been promoted against the said post. Even later on, an offer was made to the plaintiff, vide order dated 23.12.1992, for the post of Helper Grade-II, which was withdrawn by the respondents on their own. Aggrieved thereby, the plaintiff filed a suit for declaration claiming promotion to the post of ALM/Helper Grade-1 w.e.f. 16.08.1988. The said suit was decreed by the learned Civil Judge (Junior Division), Karnal, vide judgment and decree dated 05.02.1997, whereby a direction was issued to promote him to the post of ALM w.e.f. 16.04.1988 (sic), or in lieu thereof, to grant him monetary benefits of the post of ALM, with the discretion granted to the defendants to adjust him against any suitable post, as had been done in respect of similarly situated employees i.e. Jagdish, Kasturi Lal, Bir Singh etc.

4.1 Aggrieved against the said judgment and decree dated 05.02.1997, the defendants filed appeal before the First Appellate Court which has been accepted by the court of learned Additional District Judge, Karnal, vide judgment and decree dated 23.07.1998, on the ground that the plaintiff was given re-employment as T-mate on work charge basis, as he was not able to perform the duty of Peon, being declared permanently disabled. The said offer was accepted by him and he joined on 25.03.1992. He was also given compensation to the tune of Rs.69,500/- on account of accident and, therefore, he was not entitled for any job or re-employment and the re-employment was given to him on his undertaking that he will withdraw the suit and will not claim any seniority. Consequently, it was held that he is not entitled for promotion to the post of Helper Grade-1 on regular basis from 16.08.1988. The said judgment has been challenged by the plaintiff in the instant Regular Second Appeal.

5. Learned counsel for the appellant submits that after the appellant became incapacitated due to the accident, which took place on 21.04.1988, he was offered appointment as ALM on 16.08.1988, and thereafter, he was offered appointment as Helper Grade-II on 23.12.1992 i.e. Ex.P3, which was also cancelled by the respondents lateron and he was only made to work as T-mate on work charge basis w.e.f. 25.03.1992, and whereas he had already resumed his duties on 16.04.1989 after being declared medically fit. He further submits that even otherwise also, the right and claim of the plaintiff needs to be protected even in view of the

provisions of Section 47 of the 'Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act'), since he was entitled to be considered as Helper Grade-II w.e.f. 23.12.1992. He further submits that a person, who acquires disability while in service, cannot be denied promotion of a higher post and since the plaintiff was offered appointment as ALM on regular basis on 16.08.1988 and thereafter as Helper Grade-II on 23.12.1992, he was required to be treated primarily as ALM on regular basis w.e.f. 16.08.1988 and in any case as Helper Grade-II w.e.f. 23.12.1992 and, as such, he was also entitled for all the consequential benefits. In support of the said contention, he has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Bhagwan Dass and another Versus Punjab State Electricity Board, 2008(1) S.C.T. 623.***

6. *Per contra*, learned counsel for the respondents submits that since the appellant has accepted the post of T-mate on work charge basis vide Ex.D1 and joined as such on 25.03.1992 and all benefits accruing from the said post have already been granted to him, therefore, the First Appellate Court has rightly reversed the findings recorded by the Trial Court and the same is liable to be upheld.

7. I have heard learned counsel for the parties and perused the record.

8. The admitted facts are that the plaintiff joined the service of the defendants in May, 1980 as a Daily Wager, and thereafter, he was

promoted to the post of T-mate on 15.12.1982. While he was in service, an accident took place on 21.04.1988, as a result of which, the left leg of the plaintiff was amputated and he remained under treatment in the hospital till 13.03.1989. Thereafter, upon being declared medically fit, he rejoined his duties on 16.04.1989. As per the case of the plaintiff, he was offered appointment as ALM on regular basis on 16.08.1988 by the Sub Divisional Officer (Operation), HSEB, Indri, which was cancelled by the Executive Engineer, Sub Urban Division No.1, HSEB, Karnal, on 27.09.1988, which is an admitted fact by the respondents-department in written statement dated 28.11.2011 filed in CWP No.1076 of 2011. The persons, who were juniors to the plaintiff, have been promoted as ALM or on other posts despite the fact that they were permanently disabled but no specific reply had been made by the defendants in their written statement in respect of those persons. One of the persons, Bir Singh, who had been shown 80% physically handicapped, had been promoted as ALM. Similarly, another person, namely, Jagdish had been promoted as ALM, despite the fact that he was physically handicapped as his one arm and one leg were amputated. Further, the plaintiff was subsequently offered appointment as Helper Grade-II, vide order dated 23.12.1992 (Ex.P3), however, the said offer was lateron cancelled by the respondents and instead, he was appointed as T-mate on work charge basis, vide letter dated 21.01.1992 (Ex.D1), pursuant to which, he joined the said post on 25.03.1992. On the other hand, the stand taken by the respondents-defendants is that since the plaintiff was

physically incapacitated, he was offered the post of T-mate on work charge basis, vide order dated 21.01.1992. However, once the plaintiff was admittedly offered appointment as ALM on regular basis on 16.08.1988, which is a higher post than that of T-mate (work charge), he became entitled to appointment/promotion to the said post along with all consequential benefits and in this view of the matter, the findings given by the Trial Court giving directions to promote the plaintiff to the post of ALM w.e.f. 16.04.1988 (sic), or in lieu thereof, to grant him monetary benefits of the post of ALM, however, with a discretion granted to the respondents-defendants to adjust him against any suitable post, as had been done in respect of similarly situated employees i.e. Jagdish, Kasturi Lal, Bir Singh etc., are upheld.

8.1 Needless, to observe here that the observations given by the First Appellate Court in para No.10 of the impugned judgement to the effect that *“Even during the course of arguments the respondent – plaintiff was present in the court. His left leg is fully amputated and is permanent disabled to the extent of 80 percent qua his left lower limb and he is unable to do any field job. That is why he has rightly accepted the offer given by the department vide ex.D.1. It would have been other matter had he been competent to do the field job, why he has accepted the offer given to him vide Ex.D.1.”* are un-called for and, moreover, the observations in para No.15 to the effect that the suit was time barred, are also erroneous, since before the Trial Court, the defendants department have not pressed the issue

of limitation and, therefore, the same was decided in favour of the plaintiff observing that the suit was not time barred, and in this view of the matter, the impugned judgement and decree passed by the First Appellate Court is cryptic and bad in the eyes of law.

8.2 It is also a fact that the plaintiff has unfortunately died on 19.12.2009 while he was working as T-mate on work charge basis and has been paid earned leave of Rs.72,600/- and the gratuity amount of Rs.1,46,000/- only. It has further been submitted by the learned counsel for the appellant-plaintiff that even the wife of the deceased employee has also died and her legal representatives have already been brought on record vide order dated 03.12.2024 passed in CWP No.1076 of 2011.

9. In these circumstances, the plaintiff is required to be treated as ALM on regular basis w.e.f. 16.08.1988, on which date, he was made offer of appointment on regular basis by the Sub Divisional Officer (Operation), HSEB, Indri, and further, he is held entitled to all the retiral benefits treating him to be a regular employee.

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10. The instant writ petition has also been filed by the wife of the petitioner, under Articles 226/227 of the Constitution of India, seeking a writ of mandamus for directing the respondents to grant ex-gratia benefits in terms of policy dated 01.08.2006 (Annexure P-3).

11. The stand taken by the respondents in their written statement is that since the services of the deceased employee were never regularized,

therefore, the petitioner is not entitled for ex-gratia benefits/pension in terms of policy dated 01.08.2006 i.e. Haryana Compassionate Assistance to the Dependents of the deceased Government Employees Rules, 2006, as the said rules are only applicable to the regular employees of the respondent-Nigam.

12. It is the case of the petitioner that her husband was offered appointment as ALM on regular basis on 16.08.1988 by the Sub Divisional Officer (Operation), HSEB, Indri, which was cancelled by the Executive Engineer, Sub Urban Division No.1, HSEB, Karnal, on 27.09.1988. The aforesaid fact has been admitted by the respondents-department in written statement dated 28.11.2011. The relevant portion of para no.3 to 8 of the written statement are as under:-

“xxx xxx xxx xxx.

3 to 8. *That the contents of Paras-3 to 8 of the writ petition are admitted being matter of record. However, it is most respectfully submitted that as per the office record, late Mohan Lal filed a suit for declaration submitting that he was appointed on daily wages in HSEB in May, 1980. On 15.12.1982 he was promoted as T.Mate in the office of Sub Divisional Officer, Newal, District Karnal and transferred to Karnal in 1984. On 21.04.1988 while he was repairing the supply line on a electric pole he met with an accident and his left leg was amputated and he remained under treatment in PGI Chandigarh upto 13.03.1989. While he was undergoing treatment at PGI, he was given offer of appointment for the post of ALM on **regular basis** at Indri in office of Sub Divisional Officer (Operation), HSEB, Indri which was*

cancelled on 27.09.1988 by the Executive Engineer, Sub Urban Division No.1, HSEB, Karnal. Thereafter late Mohan Lal was given another offer for appointment on the post of Helper Grade-II on 23.12.1992 but late Mohan Lal preferred to file a Civil Suit challenging the cancellation order dated 27.09.1988 and also the order dated 23.12.1992 offering him the post of Helper Grade-II alongwith other reliefs.

xxx xxx xxx xxx.”

13. Since the husband of the petitioner has already been directed to be treated as a regular employee as A.L.M. on regular basis w.e.f. 16.08.1988, as per the present order passed in RSA No.3427 of 1998, therefore, the petitioner is entitled for grant of ex-gratia benefits in terms of the policy dated 01.08.2006.

Conclusion:

14. It is an admitted position that the similarly situated persons, who were juniors to the plaintiff, namely, Bir Singh, who was shown as 80% physically handicapped; Jagdish Singh, who was physically handicapped to the extent of 110% being amputated from right leg (80%) and left arm (30%); Vasudev, having 90% disability being amputated from right arm; and Kasturi Lal was having 100% disability being amputated from both the arms, were promoted to the post of A.L.M by the respondents-department, and the plaintiff, despite being similarly situated and having been duly offered the post of ALM on 16.08.1988 was arbitrarily denied the said promotion, as the offer was withdrawn by the respondents-department, vide order dated 27.09.1988, without assigning

any reasons. Such an unsubstantial act of the respondents-department in discriminating the plaintiff is wholly unjustified and cannot be sustained by any stretch of imagination. Therefore, this Court is of the considered view that the act of the respondents-department in discriminating and ignoring the plaintiff in a pick and choose manner is wholly arbitrary, unreasonable and violative of the principles of equality and fairness enshrined in Articles 14 and 16 of the Constitution of India. Moreover, the respondents have failed to place on record any plausible justification for treating the appellant-plaintiff differently from other similarly situated employees.

15. Accordingly, this Court is of the considered opinion that the action of the respondents-department in ignoring and discriminating against the appellant-plaintiff is illegal, arbitrary and unsustainable in the eyes of law. Consequently, the appellant-plaintiff is required to be treated as ALM on regular basis w.e.f. 16.08.1988 and further, he is held entitled to all the retiral benefits treating him to be a regular employee.

16. Consequently, both the cases are partly allowed and the impugned judgement and decree of the First Appellate Court is hereby reversed affirming the findings of the Trial Court given in the judgement and decree dated 05.02.1997, and the respondents are directed to treat the appellant as a regular employee on the post of ALM w.e.f. 16.08.1988 notionally and grant all consequential benefits including arrears arising from the same, along with interest @ 6% per annum, and also to consider the claim of the petitioner in CWP No.1076 of 2011 for grant of ex-gratia

benefits in terms of policy dated 01.08.2006 i.e. Haryana Compassionate Assistance to the Dependents of the deceased Government Employees Rules, 2006, and the necessary benefits accruing therefrom shall be released to the LRs of the appellant/petitioner, within a period of four months from the date of receipt of certified copy of this order.

(NAMIT KUMAR)
JUDGE

03.02.2026

sanjeev/M.K. Koundal

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No