

Civil Writ Petition No. 18890 of 2010(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 18890 of 2010(O&M)

Date of decision : May 23, 2011

Rajbala Dahiya

.....Petitioner

VERSUS

Uttar Haryana Bijli Vitran Nigam Limited & others

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

Present: Mr. Jagbir Malik, Advocate,
for the petitioner.

Mr. Mohnish Sharma, Advocate, for
Mr. Narender Hooda, Advocate,
for the respondents.

RANJIT SINGH, J.

C.M. No.7413 of 2011

Written statement taken on record.

Application disposed of.

Civil Writ Petition No. 18890 of 2010

The husband of the petitioner was working with respondent No.4 as Assistant Engineer. On 8.8.2008, the petitioner was released family pension and other terminal benefits except a sum of ₹3,50,000/- due to her on account of gratuity. On inquiry, she was informed that before the death of her husband his accounts had not been settled and there are some audit paras at which some recoveries are due against her husband on account of shortage of transformer oil and cost of missing parts of damaged transformers. So, the gratuity payable to the

petitioner was withheld. As per the petitioner, the respondents themselves have issued instructions, whereby it has been decided that the breakage only upto a maximum of 5% of the existing cost of transformer and shortage only upto maximum of 20% of the total cost of transformer oil shall be allowed and balance amount of shortage and breakage will be recovered from the employees incharge of the transformer. However, in case of death of an employee, the competent authority has been permitted to write off total amount of loss with regard to the shortages/breakage including shortage of oil as attributed to an employee.

The petitioner visited the office of the respondents and requested for release of withheld amount of gratuity, but the respondents had rejected her request. The petitioner has made reference to a decision in CWP No.777 of 2008, titled as 'Anita Rani Versus UHBVNL and others', decided on 7.8.2008. The Division Bench of this Court while allowing the writ petition has held that after the death of an employee, no recovery can be affected from the widow. Copy of the said order has been placed on record as Annexure P-3. In this order, reference is made to a policy dated 22.10.2002, which is also annexed with the present petition as Annexure P-2. The relevant part of this policy is as under:-

“In case of such official who die while in service, the competent authority under the above Delegation of Powers be allowed to write off total amount of loss with regard to the shortage/breakage including oil, as attributed to them, as a matter of amnesty.”

The respondents in their reply has not disputed the policy, which has been issued by them. Accordingly, the pleas taken in the reply to withhold the gratuity because of some recoveries are to be affected from the late husband of the petitioner cannot be accepted. Similar course was adopted by the Division Bench in *Anita Rani's case (supra)*. In view of this settled position of law, the writ petition is allowed. The respondents are directed to release the gratuity to the petitioner within a period of one month from the date of receipt of certified copy of this Court.

May 23, 2011
monika

(RANJIT SINGH)
JUDGE



सत्यमेव जयते

