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DAKSHIN HARYANA BILLET VETAN NIGAM LTD

(A Power Distribution & Retail Supply Utility, Govt. of Haryana)

AN ISO 9001:2008 Compliant Utility, CIN:-U99999HR1999SGC034165

Regd. Office: Vidyut Sadan, Vidyut Nagar, Hisar-125 005 (Haryana)

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E-mail: seadm@dhbvn.org.in;

usga@dhbvn.org.in

Memo No.Ch-92 /SE/Admn./Gen-8 A/ Vol-III

Dated: 22.10.2018

To

1. All Chief Engineers in DHBVN.
2. Chief Financial Officer, DHBVN, Hisar.
3. Chief Technology Officer, DHBVN, Hisar.
4. All SEs 'OP' Circle in DHBVN.
5. SE/HR, DHBVN, Hisar.
6. Controller of Store, DHBVN, Hisar.
7. SE/Const. Circle/ M&P Circle in DHBVN.
8. CAO/Chief Auditor/FA (HQ)/FA&CAO (MM)/FA&CAO (PD), DHBVN, Hisar.
9. Chairman/CGRF, DHBVN, Hisar.
10. Company Secretary, DHBVN, Hisar.
11. Chief Communication Officer, DHBVN, Hisar.
12. All XENs in DHBVN.
13. All Under Secretaries in DHBVN.
14. All Sectional Head in Vidyut Sadan, DHBVN, Hisar.

E-mail

Subject: - CWP No. 17528 of 2015 titled as Samunder Singh V/S DHBVN.

Please refer to the Memo No. 17/LB-2 (73) dated 30.08.2018 issued from the office of Legal Remembrancer, HPUs, Panchkula regarding judgment dated 19.02.2018 passed by Hon'ble High Court in favour of Nigam in the CWP No. 17528 of 2015 as mentioned in the subject. A copy of the said judgment is enclosed for reference.

It has been mentioned in the above said reference of L.R./HPUs that the judgment has been passed under two premises that if any order has not been set aside/quashed then same is binding on the parties secondly concealment of facts is a good ground for declining relief. It was held that petitioner is guilty of concealment of the real and actual facts about previous litigation and on merits also therein nothing favourable to him.

The relevant extract of judgment dated 19.02.2018 as mentioned in the reference of L.R./HPUs is given as under:-

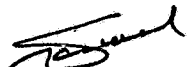
"Adverting to the facts of the instant petition, no challenge has been made to the order dated 06.03.2009 (R-4/1). Until and unless, the said order is set aside or quashed, petitioner is not entitled to any benefit, which has been claimed through instant petition and for the reasons closed to his chest, he has opted to either challenge it or to give a reference thereof in the instant petition, though, quashing of other orders dated 01.04.2015 (P-4) and 28.05.2014 (P-5) has been sought. In the facts and circumstances referred to above, petitioner is guilty of the concealment of the real and actual facts and on merits also there is nothing favourable to him. Thus, instant petition is dismissed. No order as to costs."

In reference to above judgment, it has been advised by L.R./HPUs that it is an important judgment on the issue on concealment of facts and also that every order is binding until as unless set aside quashed. Further it has been advised that the Hon'ble Court may be prayed for dismissal of similar cases of Nigam by placing reliance on the judgment dated 19.02.2018 passed by the Hon'ble High Court.

In this context, it is requested to go through the above said judgment as well as connected references and comply with the advice of L.R./HPUs, Panchkula, regarding reliance on the judgment dated 19.02.2018.

This issue with the approval of CE/HR&Admn., DHBVN, Hisar.

DA: As Above.


S.E./Administration
DHBVN, Hisar

Copy to:

1. Sr. PS to the Chairman-cum-Managing Director, DHBVN, Hisar.
2. Sr. PS to the Director/Projects, DHBVN, Hisar.
3. Sr. PS to the Director/Operations, DHBVN, Hisar.
4. The Chief Engineer/HR & Admn., DHBVN, Hisar.
5. L.R., HPUs, Panchkula.
6. SE/IT, DHBVN, Hisar. He is requested to upload the judgment dated 19.02.2018 on Nigam's website.

Gen 3A/Vot III

(9)

HARYANA VIDYUT PRASARAN NIGAM LTD.

(Govt. of Haryana undertaking)

O/o Legal Remembrancer

Shakti Bhawan, Sector-6, Panchkula

Phone: 0172-2560769, 2571841 Fax: 0172-2560769

E-mail: lr@hvpn.gov.in

From Legal Remembrancer,
HPU, Panchkula

To The CGM/Admn.,
UHBVN, Panchkula.

~~The CGM/Admn.,
DHBVN, Hisar.~~

The CE/Admn,
HPGCL, Panchkula.

The SE/Admn.-I & II,
HVPNL, Panchkula.

Memo No. 17/LB-2(73)
Dated: 30/8/16

CE/HR & Admn.	
SE/Admn.	
SE/HR	
P.A.	
Asstt. R.T.I	

Subject: CWP No. 17528 of 2015 titled as Samunder Singh V/s
DHBVN.

4776 PA/CGM/HR&A
No. 7-216
Dt. 30/8/16

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U.S./HR-I
U.S./HR-II
U.S./Gen.
U.S./Legal
XEN/T&M
Supdt./BTI

S.E./Admn/dg

Enclosed please find herewith judgment dated 19.02.2018 passed by Hon'ble High Court in the subject cited above case in favour of Nigam. The judgement has been passed under two premises are if any order has not been set aside/quashed then same is binding on the parties secondly concealment of facts is a good ground for declining relief. It was held that petitioner is guilty of concealment of the real and actual facts about previous litigation and on merits also therein noting favourable to him.

The relevant extract of judgment dated 19.02.2018 is given here under:-

"Adverting to the facts of the instant petition, no challenge has been made to the order dated 06.03.2009 (R-4/1). Until and unless, the said order is set aside or quashed, petitioner is not entitled to any benefit, which has been claimed through instant petition and for the reasons closed to his chest, he has opted to either challenge it or to give a reference thereof in the instant petition, though, quashing of other orders dated 01/04.2015 (P-4) and 28.05.2014 (P-5) has been sought. In the facts and circumstances referred to above, petitioner is guilty of the concealment of the real and actual facts and on merits also there is nothing favorable to him. Thus, instant petition is dismissed.

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No order as to costs."

It is an important judgment on the issue on concealment of facts and also that every order is binding until as unless set aside quashed. The above judgement be circulated to offices under your control for praying dismissal in similar case by placing reliance on the judgment dated 19.02.2018 passed by Hon'ble High Court.

It is also requested to direct the concerned Deputy Secretary, Technical to host the Judgment dated 19.02.2018 on the website of concerned Power Utility. A complete copy of judgment dated 19.02.2018 are enclosed herewith for ready reference.

This issue with the approval of L.R.

DA/As above

Prity
28/2/18
Legal Officer,
HPU, Panchkula.

CC:-

1. The Deputy Secretary/Technical, HVPNL, HPGCL & UHBVN, Panchkula for hosting on website.
2. The Deputy Secretary/Technical, DHBVN, Hisar for hosting on website.
3. The CE OP Circle, UHBVN, Panchkula & Rohtak.
4. The CE OP Circle, DHBVN, Hisar.
5. The DA, HPGCL, Panchkula.
6. The Legal Nodal Officer, UHBVN, HPGCL, DHBVN & HVPNL Panchkula.

CWP No.17528 of 2015

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.222

Civil Writ Petition No.17528 of 2015
DECIDED ON: February 19, 2018

SAMUNDER SINGH

..PETITIONER

VERSUS

DAKSHIN HARYANA BIJLI VITRAN NIGAM LIMITED AND
OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sanjeev Kodan, Advocate,
for the petitioner.

Mr. R.K.S. Brar, Advocate,
for the respondents.

JASPAL SINGH, J.

Through the instant civil writ petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Ceriorari directing the respondents to quash the order dated 01.04.2015 (P-4) as well as order dated 28.05.2014 (P-5), vide which claim of the petitioner for releasing the recovered amount to the tune of Rs.1,86,498/- has been declined AS WELL AS praying for a writ in the nature of Mandamus directing the respondents to release the aforesaid amount along with interest.

2. Undisputably, petitioner earlier filed a CWP No.27046 of 2013, seeking issuance of directions to the respondents for payment of

interest on the delayed payment of retiral benefits, which were alleged to have been wrongly withheld even after acquittal of the petitioner in criminal case bearing FIR No.129, dated 25.07.1998, at Police Station Kosli, under Section 409 IPC. However, the said petition was disposed of vide order dated 10.12.2013 with a direction to the respondents to consider the representation of the petitioner with regard to release of interest on the delayed payments in the light of relevant instructions as well as to release the financial benefits to him, within next two months. Since, aforesaid order dated 10.12.2013 was not complied with within the prescribed period, petitioner filed COCP No.1502 of 2014, which was disposed of 16.01.2015 as infructuous as the interest amounting to Rs.1,63,783/- on account of interest on the delayed payment of retiral benefits had already been paid. Now, through instant petition petitioner has sought refund of a sum of Rs.1,86,498/-, which was earlier withheld.

3. Here it would be pertinent to mention that petitioner has not approached this Court with clean hands and concealed the material facts with regard to fact that similar claim of the petitioner was earlier considered in view of the directions issued by this Court but was rejected while passing a speaking order vide office order No.20 dated 06.03.2009 (R-4/1). Not even the slightest reference of the said order has been given in the instant petition rather it was concealed. Not only this, petitioner had also filed CWP No.14432 of 2003 against the respondents-Nigam before this Court, in which, respondents were directed to decide his representation within a period of four months. The said representation of

CWP No.17528 of 2015

[3]

the petitioner was considered and finally dealt with and disposed of vide Order No.8, dated 12.01.2004 by passing a speaking order. But the petitioner did not disclose the filing of the said petition and passing of the order dated 12.01.2004 while filing the previous petition and said fact was also concealed therein. Similarly, these aspects were also not disclosed while he had filing CWP No.19043 of 2008 against the respondents-Nigam, so the petitioner is guilty of concealment of the real facts about previous litigation as referred to above.

4. Adverting to the facts of the instant petition, no challenge has been made to the order dated 06.03.2009 (R-4/1). Untill and unless, the said order is set aside or quashed, petitioner is not entitled to any benefit, which has been claimed through instant petition and for the reasons closed to his chest, he has opted to either challenge it or to give a reference thereof in the instant petition, though, quashing of other orders dated 01.04.2015 (P-4) and 28.05.2014 (P-5) has been sought. In the facts and circumstances referred to above, petitioner is guilty of the concealment of the real and actual facts and on merits also there is nothing favourable to him. Thus, instant petition is dismissed.

5. No order as to costs.

February 19, 2018

Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No