

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 10782 of 2013 (O&M)
Date of decision : August 03, 2015

Rakesh Kumar,

..... Petitioner

v.

DHBVN Ltd Hisar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. HS Sethi, Advocate
for Mr. Namit Kumar, Advocate
for the petitioner.

Mr. RS Dadwal, Advocate
Mr. Aman Chaudhary, Advocate
for the respondents.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

By this writ petition, the petitioner is claiming benefits on account of untimely death of his father who was electrocuted while he was working as Assistant Lineman in the office of the respondents.

The father of the petitioner had been electrocuted on 30.11.2002 and died on 5.12.2002. Originally, at that time, the petitioner had claimed for compassionate appointment but by letter dated 7.12.2005 (Annexure P-4), he was informed that he was not educationally qualified

even for Class IV job and consequently, compassionate appointment could not be offered to him. Thereafter, by letter dated 26.9.2006 (Annexure P-5), mother of the petitioner was informed that now Rules dated 1.8.2006 had come into force and she could opt for monthly financial assistance or under the 2006 Rules or seek consolidated sum under the previous 2005 Rules. At that stage, the petitioner kept insisting that he should be given a job. Ultimately, by letter dated 6.9.2011 (Annexure P-6), again the mother of the petitioner was informed that she could now get only a sum of ₹ 2.5 lacs. Even though the prayer made in the writ petition was that the petitioner should be granted compassionate appointment yet today counsel for the petitioner has restricted the claim only to the benefits under the 2006 Rules.

Counsel for the respondents, however, states that the petitioner and his family would only be entitled to a sum of ₹ 2.5 lacs, which was prescribed under the 2003 Rules.

In my opinion, this argument cannot be accepted. Once the respondents had admitted the issuance of the letter (Annexure P-5), they cannot turn around and say that merely because the petitioner kept agitating for the higher benefit of compassionate appointment, now the family of the deceased would lose even the benefits offered to them under the letter (Annexure P-5).

Counsel for the respondent has further argued that as per the 2006 Rules, the family of the deceased was not entitled to claim family pension during the period when they were entitled to get full pay and other allowances but in the present case, the family of the deceased have enjoyed the family pension.

Counsel for the petitioner has argued that as far as family of the petitioner was concerned, it was a choice between the devil and the deep blue sea, and the petitioner or his family would not be averse to receiving the benefits as enumerated in the 2006 Rules after deducting the benefit of family pension which has been granted to the mother of the petitioner.

In my opinion, arguments raised by counsel for the petitioner have to prevail. Once the petitioner has given up his claim for a job, the respondents cannot now turn around and say that the 2006 Rules would not be applicable to the case of the petitioner, more-so since a specific offer was made to the mother of the petitioner to accept the benefit. Counsel for the petitioner has further stated that the petitioner would have no objection if the benefits now sought to be granted are given to his mother.

In the circumstances, this writ petition is allowed and the respondents are directed to work out the benefit accruable to the mother of the petitioner under the 2006 Rules and after deducting the family pension, release the same to her within two months from the receipt of a certified copy of this order failing which the same would be liable to be paid with interest @ 8% pa from the date/s the amount/s fell due.

August 03, 2015
'kk'

(AJAY TEWARI)
JUDGE