

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

**CWP- 11096-2013 (O&M)
Date of Decision : 13.07.2015**

Sandeep Kumar

..... Petitioner

versus

State of Haryana & others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. B.S.Jaswal, Advocate for the petitioner.

Ms. Shruti Goyal, AAG, Haryana.

1. Whether Reporters of local papers 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)

The father of the petitioner died in harness on 15.10.1997.

At that time he was a minor being about 7 years of age. On attaining the age of majority he applied for a job on compassionate basis. By letter Annexure P-5 dated 11.10.2010 he was informed that as per the extant policy he was entitled only to compensation and not a job and he was asked to give an option. At this stage it may be brought out that the word 'option' used in this letter is completely illusory because the only option given to the petitioner was either to accept the compensation or reject the same. It was not a case where he was asked to opt between getting a job or getting compensation. Notwithstanding this letter also since nothing was done for the petitioner he filed the present writ

petition. Before me now the State has sought to take a very convoluted stand. On the one hand it is sought to be argued that as per the policy applicable at the time of the death of the father of the petitioner he could not be given any benefits since he was a minor and at the time when this case was considered in 2010 that consideration was illegal because the offer of compensation could not be made because the father of the petitioner had died prior to coming into force of the policy for compensation. Another argument which has been raised today is that with the passage of time the right of the petitioner for compassionate appointment/compensation has been eroded.

Learned Assistant Advocate General has pointed out that even in the latest decisions of the Hon'ble Supreme Court in ***Canara Bank & others Vs. M.Mahesh Kumar & ors., Civil Appeal No.260/2008 decided on 15.05.2015, MGB Gramin Bank Vs. Chakrawarti Singh, Civil Appeal No.6348 of 2013 decided on 07.08.2013 and Vijaya Ukarda Athor (Athawale) Vs. State of Maharashtra and others reported as (2015) 3 Supreme Court Cases 399***, the position is still not clear because in one case it has been held that the policy extant at the time of death would be applicable and in the other case it has been held that the policy at the time of consideration would be applicable. It is in these circumstances that the claim of the petitioner has to be considered. I put it to the learned Assistant Advocate General that in these circumstances once by letter Annexure P-5 compensation was offered to the petitioner, the State could not now turn around and deny

that benefit also. To that a blatant reply is that that letter was issued by mistake. I am afraid this kind of carte blanche cannot serve the State. In the circumstances it has to be held that if the policy of 1995 was not applicable, atleast the policy of 2005 would be applicable which was the policy under which the case of the petitioner was ultimately considered. Admittedly as per that policy the petitioner was entitled to Rs.5.00 lacs compensation.

In the circumstances this petition is disposed of with a direction to the respondents to grant to the petitioner a sum of Rs.5.00 lacs as per the policy applicable at the time when letter Annexure P-5 was addressed to him. Let the necessary payment be made within a period of two months from the date of receipt of certified copy of this order, failing which, the petitioner would be entitled to claim the same with interest @ 8% per annum from the date of issue of letter Annexure P-5 till the date of payment.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

13.07.2015*Pooja Sharma-I***(AJAY TEWARI)
JUDGE**