

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20642 of 2013 (O&M)

Date of decision : 09.07.2015

Smt. Ram Kalan

..... Petitioner

versus

State of Haryana and Ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sandeep Sharma, Advocate for the petitioner.

Ms. Shruti Goel, AAG, Haryana.

Mr. P.S. Poonia, Advocate for respondent Nos.2 & 3.

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)

Husband of the petitioner died on 03.4.2006 during service. Her claim for compassionate benefits was rejected on the ground that her family income (which included three adults and one married daughter) was more than Rs.6000/- per month. She filed a representation that the sons were living separately from her. Having not got the relief, the petitioner is before this Court.

Learned counsel for the respondents has accepted that the claim of the petitioner was rejected only on account of the fact that the family income was more than Rs.6000/-. Counsel for the petitioner relies on a judgment of this court reported as **Ashok Kumar Vs. State of Haryana 2002 (6) SLR 32** wherein it was held that if a member of the family is living

separately, his income cannot be counted towards the family income. In these circumstances, the decision of the respondents to disentitled the petitioner has to be quashed.

The issue which now arises is that whether the Policy of 2003 would be applicable or whether the matter should be sent for fresh consideration of the matter in accordance with the Policy now prevalent.

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.

Learned counsel for the petitioner has stated that even now he would be satisfied if the petitioner is granted benefits under the 2003 Policy, which was in force, when her husband died.

Learned counsel for the respondents has also accepted that on 03.4.2006, 2003 Policy was in vogue as per which, the petitioner could either get compassionate appointment or fixed amount of Rs.2.5 lacs. Since now a period of almost one decade has passed from the date of death of husband of the petitioner, it cannot be appropriate to grant her compassionate appointment, however, her claim for assistance of Rs.2.5 lacs

cannot be denied.

Learned counsel for the petitioner has stated that the petitioner had to wait for more than 9 years for this relief and interest should be granted to her.

I find this request to be justified.

However, learned counsel for the respondents has pointed out that it cannot be appropriate to grant interest from the date of death of the husband of the petitioner. He further stated that in these circumstances, in order to process the application, period of six months (as per norms for retiral benefits) would be required.

In view of the aforesaid, the respondents are directed to pay the amount of Rs.2.5 lacs to the petitioner along with interest @ 6% per annum w.e.f 01.10.2006 till the date of payment. It is made clear that in case the relief is not granted to the petitioner within a period of two months from the date of receipt of a certified copy of this order, she would be entitled to claim the aforesaid amount with interest @ 8% for the said period.

Petition stands allowed.

July 09, 2015
manoj

(AJAY TEWARI)
JUDGE