

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

RSA No.338 of 2011 (O&M)

Date of decision : 11.12.2015

Baljit Singh

...Appellant

Versus

Bank of Baroda and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Sanjeev Sharma, Advocate for the appellant.

Mr. Hitesh Kaplish, Advocate for respondents.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the judgment and decree of the lower Appellate Court, whereby judgment and decree of the trial Court decreeing the suit in favour of the appellant-plaintiff, have been set aside.

Mr. Sanjeev Sharma, learned counsel appearing on behalf of appellant-plaintiff submits, that suit for declaration and mandatory injunction claiming the compassionate employment on the demise of his father Balbir Singh who while, in harness unfortunately expired on 16.05.1999. The application dated 21.02.2000 through mother/widow of

Balbir Singh was moved seeking compassionate employment as per the terms and conditions of 1998 Scheme. On attaining the age of majority, another application in this regard was submitted on 25.03.2004. The bank rejected the claim of compassionate employment without assigning any reasons by stating that the case did not fall within the parameters of 2004 scheme. He further submits that aforementioned decision was impugned by seeking declaration as it is not in consonance with law, much less, judgment rendered in *Krishna Kumari Vs. State of Haryana and ors.* 2012(2) RSJ 476. However, the lower Appellate Court has gone into surmises and conjectures by holding that once the family of the deceased were drawing family pension, therefore, no cause of action accrued to seek compassionate employment i.e. once the member of the deceased is drawing family pension, he/she is not entitled to seek compassionate employment as per 2004 Scheme. He thus submits that following substantial questions of law arises for determination:-

- i) Whether the case of the petitioner can be considered for compassionate employment vis-a-vis the scheme which was invogue at the time when Balbir Singh deceased died or subsequent to that?
- ii) Whether advancement of family pension can be the ground for non-suiting the case of compassionate employment?

Mr. Hitesh Kaplish, learned counsel appearing on behalf of the Bank submits, that since 2004 Scheme envisaged, in case any family member of the deceased drawing the family pension, such family member is not entitled to seek compassionate employment. He further submits that the effective date for consideration on the application for compassionate

employment would be a date when the appellant-plaintiff attained majority, much less, when he moved an application dated 25.03.2004 and at that time, 2004 Scheme was invogue, thus, there is no illegality and perversity in the impugned judgment and decree of the lower Appellate Court.

I have heard learned counsel for the parties and appraised the paper book and am of the view that appeal deserves to be allowed for following reasons:-

In view of ratio decidendi culled out by Full Bench judgment of this Court in Krishna Kumaris case (Supra), it is settled provision of law that Scheme/Policy which was invogue at the time of deceased employee who died in harness is applicable. Admittedly, Balbir Singh father of the appellant-plaintiff died while in harness on 16.05.1999 and at that time, 1998 Scheme was invogue and as per the said Scheme, there was a provision of providing the compassionate employment. Vis-a-vis the rejection of the claim of the compassionate employment on the ground that once family pension is more than 60% of what the deceased person would drawing, in my view, is not in consonance with various case law laid down by Rajasthan High Court in *Mohd. Faruk Bhati Vs. S.B.B.J. and ors. 2009 (2) SCT 353* while relying upon judgment of Hon'ble Supreme Court in *Balbir Kaur Vs. Steel Authority of India Ltd. 2000(2) SCT 899* held such objection or reasoning would not be a ground for considering the member of the family for compassionate employment.

Keeping in view the aforementioned facts, impugned judgment and decree of the lower Appellate Court is hereby set aside, in essence, substantial questions of law noticed above are answered in favour of

appellant-plaintiff and against respondent-defendants.

Judgment and decree of the trial Court is restored.

Appeal is allowed.

11.12.2015

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**(AMIT RAWAL)
JUDGE**