

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

RSA No.4979 of 2012 (O&M)

Date of decision: 27.08.2015

Kamlesh

..... Appellant

versus

**Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited
and others**

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr.S.S.Mor, Advocate for
Mr.Jagjeet Beniwal, Advocate for the appellant
Mr.P.S.Poonia, 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?*

Kuldip Singh, J. (Oral)

Challenged in the present regular second appeal is the judgment and decree dated 11.4.2012, passed by the learned 3rd Additional District Judge, Bhiwani, reversing that of learned Addl. Civil Judge, Senior Division, Bhiwani dated 1.3.2011, vide which, suit of the plaintiff was decreed to the effect that plaintiff was held entitled to recover ex-gratia amount of the deceased-husband to the tune of Rs.2,50,000/-. Defendants were granted two months time to make the payment. However, learned Additional District Judge, Bhiwani held that the claim is time barred and accordingly reversed the judgment.

I have heard learned counsel for the parties and have

also carefully gone through the file.

The following substantial question of law arises in the present appeal:-

Whether the first appellate Court rightly applied the principle of limitation in refusing the release of ex-gratia payment to the plaintiff?

Undisputed, facts of the case are that Gopi Ram was working as Assistant Lineman in the office of the defendants. He died while performing duties on 24.1.2004. As per policy of the government, plaintiff was entitled to job on compassionate ground under the ex-gratia scheme or if the job is not given then she was entitled to Rs.2,50,000/- as ex-gratia payment. A communication in this regard dated 7.3.2005 was dispatched to the plaintiff by SDO of the defendants. Another communication dated 4.9.2006 was also dispatched to the plaintiff whereby she was paid only Rs.25,000/-.

According to the defendants, the said option of employment of financial assistance was to be exercised within three years but same was not exercised within the said period. However, it is also not disputed that plaintiff had earlier made a request in the year 2005 for employment under the ex-gratia scheme. She again made a request on 16.7.2007 for employment of her son, which was rejected and same was conveyed to her on 12.1.2009 vide letters Ex.D1 to D7. The present suit was filed in the year 2010 i.e. within three years from the date request of the plaintiff was rejected. In this case, on account of death of her husband, plaintiff was entitled to appointment under the ex-gratia scheme or in the alternative, she

was to be paid Rs.2,50,000/-. However, both of the said benefits could not be denied on the ground that three years time has elapsed.

I am of the view that even if the time of three years has elapsed that would mean that if the employment is not to be given on compassionate ground. Then in such ex-gratia payment should have been released. Therefore, the findings recorded by the learned 3rd Additional District Judge, Bhiwani are not sustainable in the eyes of law on the ground that the suit was filed within three years from the date the claim was rejected i.e. in the year 2009. Secondly, even if three years had elapsed, only the employment could be refused, however, the monetary ex-gratia payment was to be released. As such, the impugned judgment and decree dated 11.4.2012 passed by the learned 3rd Additional District Judge, Bhiwani is set aside and that of learned Addl. Civil Judge, Senior Division, Bhiwani dated 1.3.2011 is restored. The issue of law is decided in favour of the plaintiff -appellant.

Appeal is accordingly allowed.

27.08.2015
gk

(Kuldip Singh)
Judge