

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

106

Regular Second Appeal No.4748 of 2013 (O&M)

Date of Decision: August 18, 2015

Rakesh

...Appellant

Versus

Executive Engineer, Dakshin Haryana Bijli Vitran Nigam Ltd., Narnaul and  
others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Sanjay Mittal, Advocate  
for the appellant.

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

Present is an appeal challenging the judgments and decree passed by the trial Court as also the Appellate Court, by which the suit for mandatory injunction filed by the appellant-plaintiff directing the respondents-defendants to grant *ex gratia* appointment being the legal representative of late Shri Phool Chand, Lineman, who died due to electrocution while repairing the electricity line on 06.11.1987 while on duty at village Mandhana, as the appellant-plaintiff was minor at that stage, stands dismissed.

2. It is the contention of the counsel for the appellant-plaintiff that at the time of death of father of the appellant-plaintiff, he was minor and, therefore, could not put forth his claim for the grant of *ex gratia* appointment. His mother opted for the special pensionary benefits instead of *ex gratia* appointment and the said benefit was granted. This aspect, the appellant-plaintiff disputed as his mother was only granted family pension and not the special pension benefit and she also sought appointment on

*ex gratia* scheme for the appellant-plaintiff but that was done at the stage when the appellant-plaintiff attained majority. The said claim having not been accepted, the suit was filed by the appellant-plaintiff. Counsel contends that as no special pension benefit was granted to the mother of the appellant-plaintiff, there is no reason why the respondents should have denied the claim of the appellant-plaintiff for appointment on *ex gratia* basis. He contends that the Courts below have proceeded on the presumption that since the special family pension benefit has been granted to the mother of the appellant-plaintiff, he would not be entitled to the benefit.

3. On a question being put by this Court as to how and under what scheme the appellant-plaintiff would be entitled to the appointment on *ex gratia* basis, the counsel is unable to produce or project any such instructions. It is well known that the very purpose of *ex gratia* appointment/compassionate appointment is to bailout a family in a situation, which has arisen because of sudden demise of the sole breadwinner for the family. Reference in this regard can be made to the judgment of the Supreme Court passed in case titled as *Umesh Kumar Nagpal Versus State of Haryana 1994(4) SCC 138*.

4. It is an admitted position that after the death of father of the appellant-plaintiff, his mother was getting the family pension. After the death of mother of the appellant-plaintiff, he and other family members started receiving the pensionary benefits. On attaining majority by appellant-plaintiff, his brother has been receiving the pensionary benefits. In the absence of any specific instructions on the basis of which it can be asserted that legal heir of a deceased would be entitled to *ex gratia*

appointment benefit on attaining the age of majority, the claim as made by the appellant-plaintiff in the civil suit, has rightly been rejected by the Courts below. That apart, no substantial question of law arises, which requires consideration of this Court.

5. In view of the above, the present appeal stands dismissed.

**August 18, 2015**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**