

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12970 of 2013 (O&M)

Vipan Verma

... Petitioner

Versus

State of Punjab & others

... Respondents

CWP No.9892 of 2008

Shanta Verma

... Petitioner

Versus

State of Punjab & others

... Respondents

Decided on : 16.03.2016

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.Gagneshwar Walia, Advocate, for the petitioner.

Mr.Avinit Avasthi, AAG, Punjab.

Mr.Diwan Sharma, Advocate, for respondent No.6.

G.S. Sandhawalia , J. (Oral)

This judgment shall dispose of CWP-12970-2013 & 9892-2008.

The order under challenge is dated 11.09.2012 (Annexure P5) whereby respondent No.4 sought to pay the family pension and gratuity to respondent No.6, Anish Kumar, son of Ashok Kumar, the Government employee. The petitioner is the brother of the deceased Government employee and thus, the paternal uncle of respondent No.6. In the connected case Shanta Verma, the mother of the deceased employee had filed the writ petition, challenging the order dated 02.05.2008 (Annexure P8) whereby her right to family pension had been denied.

In the writ petition filed by Shanta Verma, an interim order dated 18.02.2010 has been passed wherein 50% of the retiral benefits of the deceased employee were to be disbursed to her whereas the balance were to go to Anish Kumar, the son. It is pertinent to mention that Sudha Rani, the wife of the deceased employee had already been divorced, at that point of time.

After the passing of the interim order, Shanta Verma, the mother expired on 25.03.2011 and therefore, could not take the benefit of the said order and the amount was not received by her. On account of the impugned order being passed on 11.09.2012 (Annexure P5), Vipin Verma (petitioner in CWP-12970-2013) approached this Court, taking the plea that he being the son was the legal heir of Shanta Verma and therefore, was entitled for the said benefit.

It is a common case between the parties that, now, even Anish Verma is no longer entitled to any future pensionary benefits, having attained the age of 25 years and already having got the benefit of compassionate appointment also. The parties have also compromised and photocopy of the deed dated 18.01.2016 has now been placed on record as Annexure A1. The divorced wife of the deceased employee is also a signatory to the said compromise, as party No.2. Relevant part of the compromise, pertaining to the retiral dues, is reproduced as under:

“10. That retirement benefits of Sh. Ashok Kumar Verma was to be taken by party no.1 Anish Verma and late Smt. Shanta

Verma to the extent of ½ share each and out of that party no.1 Anish Verma has already withdrawn his ½ share and remaining ½ share will be withdrawn by party no.3 Vipin Kumar Verma and litigation to this effect is also pending in the Courts at Chandigarh and in that litigation Anish Verma Party No.1 will be bound to suffer the statement to this extent.

Hence, this compromise has been affected between the parties mentioned above in presence of witnesses.”

It is also not disputed that there are 2 separate succession certificates in favour of the brother of the deceased employee-Vipan Verma, in whose favour, Shanta Verma has also executed a will dated 15.05.2006 and one in favour of the son. It is not necessary, however, to refer to the said succession certificates, in view of the compromise arrived subsequently.

The writ petitions are, accordingly, disposed of, with a direction that the parties shall be bound by the terms of Clause 10 of the compromise deed, as reproduced above and will be entitled for their half shares of the service dues of the deceased employee, accordingly. The State is bound to pay the amount which was due to Shanta Verma, as per the interim order dated 18.02.2010, which is confirmed now and shall make payment to Vipan Verma in that regard. It is submitted that the amount is lying with respondent No.5, the State Bank of India, Sector 7C, Madhya Marg, Chandigarh, pertaining to the share of Shanta Verma, which shall, accordingly, be disbursed to the petitioner-Vipan Verma.

MARCH 16, 2016

sailesh

**(G.S. SANDHAWALIA)
JUDGE**