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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 16588 of 2012
Date of Decision: 08.09.2016

KUSUM DHANKAR … ***Petitioner***

VS.

PUNJAB NATIONAL BANK, NEW DELHI ..***Respondent***

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Jasbir Malik, Advocate,
for the petitioner.

Mr. Sourav Verma, Advocate,
for the respondent.

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1. *Whether the Reporters of local newspaper may be allowed to see the judgment?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest?*

KULDIP SINGH, J. (Oral)

Azad Ram-deceased husband of the petitioner was working as CCO in the respondent-Punjab National Bank since 01.03.1985. On 23.01.2008, he died in a road accident. On 09.07.2008, the petitioner filled-in the requisite application form *(Annexure P-1)* for grant of ex-gratia assistance in lump-sum in lieu of employment on compassionate ground. It was followed by another letter/reminder dated 23.02.2009*(Annexure P-2)* for early decision in the matter. Vide letter dated 09.11.2009 *(Annexure P-3)*, the respondent-Bank sanctioned ₹ 8.00 lakhs as ex-gratia assistance to the petitioner and she was asked to visit the branch of the Bank in business hours on any working day.

It comes out from letter (Annexure P-5) that the petitioner again addressed a letter dated 22.06.2011 intimating the respondent-Bank that her proposal for ex-gratia has already been accepted by the Bank but she had stated that she had delayed the matter on account of the fact that there was some possibility regarding having appointment on compassionate ground in the respondent-Bank. In the said letter she further prayed that the ex-gratia assistance be released alongwith the interest as early as possible. The respondent-Bank thereafter addressed a letter dated 23.06.2011 (Annexure P-4) whereby she was informed that ex-gratia proposal was recommended to the higher authorities for consideration and competent authority had observed that the monthly income of the family of the deceased employee from all sources is more than 60 % of the last drawn salary of the deceased employee and as such the family of the deceased is not eligible to receive ex-gratia assistance under the Scheme. The petitioner has challenged the said letter dated 23.06.2011 *(Annexure P-4)* whereby ex-gratia assistance was withdrawn.

The respondent Bank in the reply has claimed that there is a policy in the shape of HRD division circular no. 433 dated 03.11.2007 which has been introduced by the respondent-Bank as a welfare measure to provide relief to the family of the deceased employee dying in harness or taking premature retirement. It is stated that ex-gratia payment cannot be claimed as a matter of right. It is stated that the petitioner has filed an application for grant of ex-gratia assistance in lieu of the appointment on compassionate ground on 09.07.2008 in terms of aforesaid circular and the same was considered by the respondent-Bank and an amount of ₹ 8.00 Lakhs were sanctioned in lieu of the appointment on compassionate ground. However, the petitioner consistently declined the offer as given to her vide letters dated 03.12.2009 and 04.02.2010 and pressed for appointment on compassionate ground. On 31.07.2010, the petitioner again requested for sanction of ex-gratia assistance and submitted an application under the said scheme. In the meanwhile, the family of the deceased got compensation of ₹ 16,20,828/- from the Motor Accident Claims Tribunal, Kurukshetra on 31.07.2009 and further on 27.04.2010 a joint note was signed between the Indian Banks' Association and Officers' Association at industry level. In terms of said note revised wages structure in Bank became operative w.e.f 01.11.2007. Due to these subsequent developments, the financial position of the petitioner had changed and the eligibility of the petitioner for grant of ex-gratia assistance was reconsidered. On the basis of fresh calculations, the family of the deceased was found to be ineligible for the ex-gratia assistance as the monthly income of the family from all sources was found to be more than 60% of the last drawn gross notional salary of the deceased employee i.e. ₹ 14,824/-

I have heard learned counsel for the parties. Undisputedly, the petitioner has applied for grant of ex-gratia assistance on 09.07.2008 and it was sanctioned on 09.11.2009 *(Annexure P-3)*. It is also apparent that the petitioner did not receive the said ex-gratia assistance and kept pressing for appointment on compassionate ground. Later on, she filed another application *(Annexure P-5)*.

The policy of the respondent-bank for ex-gratia assistance *(Annexure R-1)* shows that ex-gratia assistance will be granted if the monthly income of the family from all sources after the death/premature retirement on medical grounds of the employee, is less than 60% of the last drawn gross salary (net of taxes) of the employee concerned. In the additional affidavit, while calculating the income of the family of the deceased, the compensation received from the Motor Accident Claims Tribunal, Kurukshetra on

31.07.2009 has also been considered. After considering the same, the impugned order *(Annexure P-4)* was passed declining the grant of ex-gratia assistance to the petitioner.

I am of the view that when the ex-gratia assistance was initially sanctioned to the petitioner, the matter was considered and at that time, the income of the family from all sources was less than 60% of the last drawn gross salary of the deceased. Therefore, the family was found to be eligible for ex-gratia assistance. Now, the question would arise whether on account of subsequent rise in income of the family of the deceased employee, the same could be withdrawn or not?

I find the reply in negative as the circular *(Annexure R-1)* do not provide that the respondent-Bank is entitled to review its own order if the subsequently income of the family of the deceased employee rises above the prescribed limit.

In this case, earlier the ex-gratia assistance was sanctioned to the petitioner and merely on the fresh application filed about two years later, the ex-gratia assistance could not be withdrawn/declined. The income was to be calculated immediately after the death of the deceased employee to consider the eligibility of his family for the grant of ex-gratia assistance. At that time, the family met the criteria under the Rules, therefore, subsequent rise in income on any ground including the compensation received from the award passed by the Motor Accident Claims Tribunal, Kurukshetra could not be considered to review the order and withdraw the same.

Accordingly the present petition is allowed.

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The writ of mandamus is issued directing the respondent to release ₹ 8.00 Lakhs in respect of ex-gratia assistance in terms of *(Annexure P-3)* alongwith interest @ 9% per annum which shall be payable from 22.06.2011 when the petitioner herself again pressed for ex-gratia assistance till the actual release of the said assistance, as during the intervening period, the petitioner herself did not receive the said assistance.

The respondent is directed to complete the aforementioned exercise within one month from the receipt of the certified copy of this order.

September 8, 2016. **[KULDIP SINGH]**
Suresh Kumar **JUDGE**

Whether speaking / reasoned	✓ ***Yes***	/	***No***
Whether Reportable	✓ ***Yes***	/	***No***